THE NATIONAL ARCHIVES OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 12 NUMBER 109

Washington, Wednesday, June 4, 1947

TITLE 3—THE PRESIDENT

PROCLAMATION 2732

REVOCATION OF PROCLAMATION NO. 2412, RELATING TO THE CONTROL OF VESSELS IN TERRITORIAL WATERS OF THE UNITED STATES

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS by Proclamation No. 2412, issued June 27, 1940, the President consented to the exercise, with respect to foreign and domestic vessels, by the Secretary of the Treasury and the Governor of the Panama Canal of all the powers conferred by section 1 of Title II of the act of Congress approved June 15, 1917, 40 Stat. 220 (50 U. S. C. 191), upon the President, the Secretary of the Treasury, and the Governor of the Panama Canal; and

WHEREAS the conditions which necessitated the issuance of the proclamation no longer exist:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, under and by virtue of the authority conferred upon me by the said act of June 15, 1917, do hereby revoke the said Proclamation No. 2412 of June 27, 1940.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 31st day of May in the year of our Lord nineteen hundred and forty-seven, and of the Independence of the United States of America the one hundred and seventy-first.

[SEAL]

HARRY S. TRUMAN

By the President:

G. C. MARSHALL,
Secretary of State.

[F. R. Doc. 47-5347; Filed, June 2, 1947; 4:51 p. m.]

EXECUTIVE ORDER 9857A

MEDAL FOR MERIT

By virtue of and pursuant to the authority vested in me by section 2 of the act of July 20, 1942, 56 Stat. 662, Executive Order No. 9637 of October 3, 1945, prescribing rules and regulations for the award of the decoration of the Medal for Merit, created by the said act, is hereby amended to read as follows:

1. The decoration of the Medal for Merit shall be awarded only by the President of the United States or at his direction. Awards of the Medal for Merit may be made to such civilians of the nations prosecuting the war under the joint declaration of the United Nations and of other friendly foreign nations as have distinguished themselves by exceptionally meritorious conduct in the performance of outstanding services since the proclamation of an emergency by the President on September 8, 1939. Awards of the Medal for Merit made to civilians of foreign nations shall be for the performance of an exceptionally meritorious or courageous act or acts in furtherance of the war efforts of the United Nations.

2. There is hereby established the Medal for Merit Board, which shall be composed of three members appointed by the President, one of whom shall be designated by the President to act as Chairman of the Board.

3. The Medal for Merit Board shall receive and consider proposals for the award of the decoration of the Medal for Merit and submit to the President the recommendations of the Board with respect thereto. In the case of proposed awards to civilians of foreign nations, such recommendations shall include the recommendations of the Secretary of State.

4. The Medal for Merit Board is authorized to prescribe, with the approval of the President, such rules and regulations not inconsistent with the provisions of this order as may be necessary to accomplish its purposes.

5. Executive Order 9331 of April 19, 1943 and the Medal for Merit Board created thereby, are superseded by this order.

6. The Medal for Merit shall not be awarded for any services relating to the prosecution of World War II performed subsequent to the cessation of hostilities, as proclaimed by Proclamation No. 2714 of December 31, 1946, and no proposal for an award for such services submitted

(Continued on page 3585)

CONTENTS

THE PRESIDENT

EXECUTIVE AGENCIES

FEDERAL REGISTER

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Division of the Federal Register, the National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 8B), under regulations prescribed by the Administrative Committee, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

The regulatory material appearing herein is keyed to the Code of Federal Regulations, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended June 19, 1937.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1.50 per month or $15.00 per year, payable in advance. The charge for individual copies (minimum 15¢) varies in proportion to the size of the issue. Remit check or money order, made payable to the Superintendent of Documents, directly to the Government Printing Office, Washington 25, D. C.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

CONTENTS—Continued

CONTENTS—Continued

CONTENTS—Continued

CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such in parentheses.

[1] Proc. 2732.
[2] P. L. O. 371.
[3] P. L. O. 372.
[4] E. O. 9857A.
[5] E. O. 9857B.

CODIFICATION GUIDE—Con.

CODIFICATION GUIDE—Con.

*P. L. O. 373.

after June 30, 1947, shall be considered by the Medal for Merit Board.

HARRY S. TRUMAN

THE WHITE HOUSE,
May 27, 1947.

[F. R. Doc. 47-5285; Filed, May 29, 1947; 4:50 p. m.]

EXECUTIVE ORDER 9857B

AMENDMENT OF EXECUTIVE ORDER NO. 9734 OF JUNE 6, 1946, ESTABLISHING THE PRESIDENT'S CERTIFICATE OF MERIT

By virtue of the authority vested in me as President of the United States and as Commander in Chief of the Army and Navy of the United States, it is hereby ordered that Executive Order No. 9734 of June 6, 1946, which established the President's Certificate of Merit and prescribed rules governing the award thereof, be, and it is hereby, amended by the addition thereto of the following paragraph:

The President's Certificate of Merit shall not be awarded for any act or service performed subsequent to the cessation of hostilities of World War II, as proclaimed by Proclamation No. 2714 of December 31, 1946, and no proposals for such award submitted after June 30, 1947, shall be considered by the Medal for Merit Board.

HARRY S. TRUMAN

THE WHITE HOUSE,
May 27, 1947.

[F. R. Doc. 47-5284; Filed, May 29, 1947; 4:50 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter III—Farmers Home Administration

Subchapter F—Project Liquidation

PART 352—PUBLIC FACILITIES, EASEMENTS, AND RIGHTS-OF-WAY

Subchapter G—Farm Ownership

PART 362—PURPOSES

PART 363—APPLICATIONS

PART 364—REGULATIONS

PART 366—FARMS

PART 367—LOAN PROCESSING

MISCELLANEOUS AMENDMENTS

1. Subchapter F, "Management" in Chapter III of Title 6, Code of Federal Regulations (6 CFR, Cum. Supp., Chapter III, Subchapter F), is redesignated "Project Liquidation"; Part 352, "Easements and Licenses" (ibid.) is redesignated "Public Facilities, Easements, and Rights-of-Way"; and § 352.61 (ibid.) is revised to read as follows:

§ 352.61 *Grants and dedications of public facilities, and granting of easements and rights-of-way*—(a) *General.* Public facilities, such as electric light, water and sewage systems, buildings and lands for schools and churches, and land for public roads, streets and alleys, may be granted or dedicated to public or semi-public institutions or granted to public or private organizations only under the conditions specified in this section.

(b) *Requirements for approval.* State FHA directors will submit to the Administrator, for his approval, all requests for grants or dedications of surplus real and personal property. The submission will contain the following:

(1) The request* for dedication, accompanied by a duly adopted resolution or other authorization under which the recipient agrees to operate and maintain the property for public purposes as the type of facility which the property constitutes, or for which it is being granted or dedicated, and to relieve the Government of all responsibility in connection therewith. In the case of grants of public facilities, such as electricity, water

and sewage systems, of the nature of a business enterprise, the recipient should further agree that it will not use the facilities in competition with companies or organizations in the area furnishing adequate services to the inhabitants upon reasonable rates and terms.

(2) An opinion of the representative of the office of the Solicitor indicating the following information:

(i) The grantee's authority to accept the transfer of such property subject to the conditions which the Government will impose.

(ii) The authority of the grantee to levy and collect assessments or otherwise raise funds for the proper operation and maintenance of the property to be transferred.

(iii) The effect, if any, of the proposed conveyance on the rights of the inhabitants of the area.

(3) Original and four copies of the quitclaim deed and a copy of the plat, when necessary, approved by the representative of the office of the Solicitor for legal sufficiency.

(4) A statement by the state FHA director containing, and indicating in detail, the basis for:

(i) A finding that the facilities or lands cannot be sold at reasonable prices.

(ii) A finding that similar facilities or lands are not available at reasonable rates and terms to the inhabitants of the particular area.

(iii) Recommendations as to precautions that can be taken to provide that the facilities will not be used in competition with companies or organizations in the area furnishing adequate services to the inhabitants upon reasonable rates and terms.

(iv) A finding that due consideration has been given to all applications for the particular grant or dedication.

(v) A finding that the particular organization or institution recommended as the recipient would be most capable of maintaining and operating the property.

(vi) A finding as to the effect of the proposed conveyance of the facility on the inhabitants of the particular area.

(5) In addition to the above, the following data should be submitted:

(i) A statement as to the present use of the facility.

(ii) Cost of the property and a fair-market value appraisal.

(iii) Possibilities of other disposition, including sale, for cash or on credit.

(iv) A description of the facility, including all improvements, and an inventory of equipment and other personal property, with property or serial numbers, included in the transfer.

(c) *Corporation trust property.* Grants or dedications of State Rural Rehabilitation Corporation Trust Fund facilities, buildings, or lands will be made in accordance with the conditions and requirements in this section. The data mentioned in paragraph (b) (5) of this section, however, will be augmented by additional information to support a finding that the conveyance will be in furtherance of rural rehabilitation in the particular state in which the property is located.

(d) *Approval and distribution of deeds.* Upon approval by the Administrator, the deed will be forwarded to the appropriate Area Finance Office, Attention: Administrative Services Division, for the assignment of contract number, distribution of copies, and such action as may be required for clearance of property accountability. The original will be forwarded to the grantee or purchaser, and one conformed copy will be forwarded to each of the following:

(1) General Accounting Office.

(2) Area Finance Office.

(3) State Office.

(4) Communications and Records Management Section of the Administrative Services Division in the National Office.

(e) *Easements.* (1) Grants of rights-of-way will be made in accordance with the foregoing provisions, with the following exceptions:

(i) In cases in which the purpose of the right-of-way is to supply electricity by means of a primary line, the Federal Power Commission alone has jurisdiction to grant such rights-of-way pursuant to section 4 of the Federal Power Act (16 U. S. C. 797). Under the act, the Commission will insert into the agreement such conditions as the Secretary may designate for the protection of the project. In all cases involving rights-of-way for power lines, the State office will require each applicant to submit a written statement of whether or not the proposed line is to be a primary line within the meaning of the Federal Power Act. If the line is to be a primary line, the State office will refer the request to the Washington office.

(ii) Where a requested right-of-way is determined by the State FHA director to be of benefit to the public in general or to the Government, he may execute, under the authority of section 161 of the Revised Statutes (5 U. S. C. 22), a "Revocable License," as distinguished from a grant of the right-of-way, in form approved by a representative of the office of the Solicitor.

(2) In addition to the applicable information and determinations required in this section, a grant docket should contain the following information:

(i) The name and number of the project in connection with which the right-of-way is requested.

(ii) The name and address of the public agency, corporation or individual requesting the right-of-way, together with a statement regarding the purpose and nature of the right-of-way.

(iii) The tract numbers and the names of the vendors of the land to be affected by the right-of-way, indicating the status of ownership of the land and whether the land was purchased with Federally appropriated funds or with State RR Corporation funds (managed or transferred in trust).

(iv) The project unit number(s) of the land to be affected by the right-of-way, the type of occupancy agreement(s) in force, and the date(s) of expiration of such agreement(s).

(v) The written consent of any occupant of the land which is to be made subject to the right-of-way, if the occupant holds the land or any part thereof under any type of purchase agreement. If the occupant's spouse or some other person or persons joined in the execution of the purchase contract, the consent should be signed by all. Any consideration to be paid to the occupant will be applied in accordance with the terms of a supplemental agreement executed prior to the granting of the right-of-way.

(vi) The quitclaim deed specified in paragraph (b) (3) of this section, should describe the easement or right-of-way by either the center line (together with the width) or metes and bounds, with the point of beginning tied to a permanent reference point. Where necessary, the quitclaim deed should be accompanied by a plat, satisfactory to the state FHA director, showing the exact area to be covered in relation to the remainder of the tract. To the extent appropriate, the Government expressly should reserve the right to use the surface over which the easement or right-of-way is granted, the air space above and the subsurface, for any purpose and in any manner which will not interfere with the rights of the grantee.

(vii) The amount of the financial consideration, if any, to be paid for the right-of-way.

(viii) Written recommendations of the FHA Supervisor regarding the granting of the right-of-way.

(ix) In the case of rights-of-way for the purpose of erecting power lines, a determination of whether or not the line is to be a primary line.

(x) A listing of any other pertinent facts disclosed by the investigation.

2. Part 362, "Purposes" in Chapter III of Title 6, Code of Federal Regulations (6 CFR, Cum. Supp., Chapter III, Subchapter G), including § 362.11 (ibid.), and Part 363, "Applications" (ibid.), including § 363.11 (ibid.), are revoked.

3. Paragraphs (a), (c), and (d) of § 364.11 *General Regulations* in Chapter III of Title 6, Code of Federal Regulations (6 CFR, Cum. Supp., Chapter III, Subchapter G) are revoked, and §§ 364.1, 364.2, and 364.3 are added as follows:

§ 364.1 *General regulations* — (a) *General.* (1) The word "farm" as used in procedure relating to Farm Ownership loans includes the land, buildings, fences, water appurtenances, and other improvement items generally considered a part of the real estate. Funds for such items, as needed, should be provided in Farm Ownership loans. In some States, certain improvement items or appurtenances which ordinarily would be considered a part of the real estate may, by agreement between the owner of the land and the person furnishing or using such appurtenances, remain personal property. Such an agreement would be binding on a Farm Ownership borrower who purchases the land. In all cases where funds are included in a Farm Ownership loan to purchase such improvements or appurtenances, the FHA Supervisor, with the advice of the representative of the office of the Solicitor, will ascertain that such appurtenances are free from any liens or encumbrances and are covered adequately by the first mortgage or

deed of trust to be taken on the real property.

(2) When a Farm Ownership applicant has funds of his own to apply toward the purchase, enlargement, or development of a farm, such funds will be deposited in a supervised bank account as soon as possible but not later than the time the Farm Ownership loan funds are deposited. Such funds will not be held back for making additional and unapproved expenditures.

(3) Any existing liens on a farm which is to be enlarged or developed will be paid off with the proceeds of a Farm Enlargement or Farm Development loan, so that there will be no liens on the farm other than the first mortgage or deed of trust securing the loan.

(4) Except as otherwise authorized by the Administrator, arrangements will not be made with sellers to construct new or repair old buildings in order to comply with the anticipated needs of Farm Ownership applicants. Construction work will be financed with Farm Ownership loan funds and will be subject to established Farm Ownership regulations.

(5) There may be included in each Farm Ownership loan a service fee in an amount sufficfent to pay for (i) recordation of the deed and mortgage or deed of trust, (ii) any portion of the expense of title examination and title insurance chargeable to the borrower, (iii) bank charges for handling deposits in connection with the loan, (iv) health examination, if required, and (v) other expenses necessary in connection with the acquisition of the land and the closing of the loan. A sum of five dollars ($5) will be added to the sum of these charges to cover possible underestimates. Any questionable items included in the service fee will be referred to the representative of the office of the Solicitor for advice.

(6) Promptly after completion of the planned expenditures, any remaining balance of a Farm Ownership loan will be applied on the borrower's Farm Ownership loan account as a refund.

(7) No Farm Ownership loan will be made unless it has been determined, after representation by the applicant on Form FHA–5, "Loan Voucher," and certification to such effect by the County FHA Committee on Form FHA–491, "County Committee Certification," that credit sufficient in amount to finance the actual needs of the applicant is not available to him, at a rate of interest not exceeding five per centum per annum and on terms prevailing in the community, in or near which the applicant resides, for loans of similar size and character from commercial banks, cooperative lending agencies, or from any other responsible source.

(b) *Restrictions on loans.* Farm Ownership loans will not be made:

(1) To any corporation, partnership, or cooperative association.

(2) To carry on any operations in collective farming or cooperative farming.

(3) To carry on any Government land-purchase or land-leasing program, or to organize, promote or manage homestead associations, land-purchasing associations, or cooperative land-purchasing for colonies of rehabilitants and tenant purchasers.

(4) To purchase or refinance indebtedness against machinery, tools, equipment, livestock and similar items not legally considered real property. A Production and Subsistence loan will not be made to pay the principal or interest on a Farm Ownership loan.

(5) To finance any farm development not located on the property covered by the mortgage or deed of trust.

(6) To pay real property insurance premiums.

(7) To purchase a building located on an outside tract to be moved to a Farm Ownership farm, unless an exception is made in a particular case by the state FHA director. Such an exception will be granted by the state FHA director only upon condition that the building purchased is, in the opinion of the representative of the office of the Solicitor, properly released from any liens or mortgages outstanding against the property upon which it is located, and the further condition that it is definitely more advantageous to the borrower to purchase and move a building to a Farm Ownership farm than it is to construct or repair a building on the Farm Ownership farm.

(c) *Disabled Veterans.* No Farm Ownership loan will be made to a disabled veteran with a pensionable disability to enable him to acquire, enlarge, or improve a farm which is less than an efficient family-type farm unless the unit as acquired, enlarged, or improved is of sufficient size and character to meet the farming capabilities of such a veteran and will afford him an income which, together with his pension, will enable him to meet his living and operating expenses and repay the loan.

(d) *Additional limitations for farm enlargement and farm development loans.* (1) No Farm Enlargement or Farm Development loan will be made if the indebtedness to be refinanced plus the costs incident to such refinancing exceeds the determination by the County FHA Committee of the value less planned improvements of the applicant's unit.

(2) With the exception of Farm Development loans to disabled veterans as provided in paragraph (c) of this section, no Farm Development loan will be made except for improving a farm of such size that it can be developed into an efficient family-type farm and for refinancing such indebtedness as is necessary against such a farm.

(e) *Terms of loans.* (1) Farm Ownership loans will be amortized over a period not to exceed forty years.

(2) Interest will be charged at three percent (3%) per annum on the unpaid principal of Farm Ownership loans approved prior to November 1, 1946. Interest will be charged at three and one-half percent (3½%) per annum on the unpaid principal of Farm Ownership loans approved subsequent to October 31, 1946.

(3) Farm Ownership loans will be secured by a first mortgage or deed of trust on the farm. The mortgage or deed of trust securing the debt will specify the terms and conditions under which the funds were advanced to the borrower. In addition to the repayment period and the interest rate, as indicated above, such instruments will provide, among other conditions, that:

(i) The borrower will repay the unpaid balance of the loan, with interest, in installments based upon prescribed amortization schedules.

(ii) The borrower will keep the property insured against loss by fire or other casualty, and will pay taxes, assessments and other charges against the farm to the proper taxing authorities.

(iii) The borrower personally and continuously will use the property as a farm and for no other purpose.

(iv) The farm will be maintained in good condition; waste and exhaustion of the property will be prevented; required repairs will be made; and farming conservation practices as prescribed by the Secretary of Agriculture will be carried out.

(v) Final payment on the loan will not be accepted in less than five years, without written consent of the Farmers Home Administration.

(vi) The entire amount due on the loan, for violation of certain agreements, may be declared immediately due and payable.

(vii) The borrower will apply for and accept a refinancing loan from a Federal land bank, or other responsible cooperative or private credit source, if at any time it shall appear to the Secretary that the borrower is able to obtain such a loan at a rate of interest not in excess of five per centum per annum and on terms for loans for similar periods of time and purposes prevailing in the area in which the loan is made.

§ 364.2 *Loan limitations*—(a) *General.* The Secretary of Agriculture has determined the average values of officient family-type farm-management units and loan limits for most of the counties and parishes of the United States, Hawaii and Puerto Rico. Farm Ownership loans will not be made in any county, parish, or locality until such determinations have been made for the county, parish or locality. (See paragraph (b) of § 364.11 for average values and loan limits.)

(b) *Average value.* "Average value" means the average value of efficient family-type farm-management units, as determined by the Secretary, in the county, parish, or locality where the farm is located.

(c) *Loan limit.* The county or parish loan limit, as determined by the Secretary, is the maximum limit on the total investment of a Farm Ownership applicant in a complete farm unit, computed in accordance with paragraph (e) of this section. Generally, in counties and parishes where the average value is $12,000 or less, the loan limit and the average value are the same. In counties and parishes where the average value is in excess of $12,000, the loan limit is $12,000.

(d) *Value certified by County FHA Committee.* The fair and reasonable value of a farm is the amount which, in the best judgment of the County FHA Committee, the farm is worth, after taking into consideration Form FHA–596, "Earning-Capacity Report," the improvements to be made and the fair

market value, after a personal inspection of the property and the plans for improvements.

(e) *Total investment in farm.* The total investment of a Farm Ownership applicant in a complete farm unit will consist of the following:

(1) The option price of all land to be acquired.

(2) The amount necessary for all planned repairs and improvements, both immediate and deferred, to be derived from Farm Ownership loan funds or from any other source.

(3) The amount of any necessary expenses of land acquisition, whether included in the Farm Ownership loan as a service fee or paid by the applicant from personal funds.

(4) For Farm Enlargement and Farm Development loans, the value of the applicant's equity, as determined by the County FHA Committee, in land owned by him.

(5) For Farm Enlargement and Farm Development loans, any amount necessary for refinancing purposes.

(f) *Application of loan limitations.* (1) No Farm Ownership loan will be approved for the acquisition, enlargement, or development of any farm:

(i) If the fair and reasonable value of the farm, as certified by the County FHA Committee on item 6 of Form FHA–491, "County Committee Certification," exceeds the average value, as determined by the Secretary, for the county or parish (see paragraph (b) of § 364.11), or

(ii) If the total investment of the Farm Ownership applicant in the complete farm unit, computed as in paragraph (e) of this section, exceeds either the loan limit for the county or parish, as determined by the Secretary (see paragraph (b) of § 364.11), or the fair and reasonable value of the farm, as certified by the County FHA Committee on item 6 of Form FHA–491.

(2) In some counties and parishes, the average value, as determined by the Secretary, is greater than $12,000. In such counties and parishes, a loan may be made with respect to a farm which has a value, as certified by the County FHA Committee, in excess of $12,000 provided:

(i) The value, as certified by the County FHA Committee, does not exceed the average value, as determined by the Secretary, and

(ii) The total investment of the Farm Ownership applicant in the complete farm unit, computed as in paragraph (e) of this section, does not exceed either $12,000 or the value of the farm, as certified by the County FHA Committee on item 6 of Form FHA–491, whichever is the lesser.

(3) For the purposes of applying the limitations of this paragraph, if a farm lies in more than one county, it will be deemed to be located in the county in which the residence building of the farm is located or is to be constructed.

§ 364.3 *Purposes of Farm Ownership Loans*—(a) *General.* The broad purposes of Farm Ownership (FO) loans are to:

(1) Provide credit which is not otherwise available to promote more secure occupancy of farms and farm homes by families who derive the major portion of their income from farming operations.

(2) Correct the economic instability resulting from some present forms of farm tenancy by substituting farm ownership for farm tenancy.

(3) Promote farm ownership by making loans and insuring mortgages to enable qualified farm tenants, farm laborers, sharecroppers, veterans and other individuals to acquire, repair or improve family-size farms or to enlarge, repair, or improve farms which are undersized or underimproved and which can be enlarged, repaired, or improved so as to constitute efficient family-type farm-management units. (See § 366.1 of this chapter.)

(4) Promote farm ownership by making loans and insuring mortgages to enable qualified disabled veterans to acquire, enlarge, repair, or improve farm units of sufficient size to meet their needs and farming capabilities.

(5) Preserve the family-type farm in the continental United States and in Alaska, Hawaii and Puerto Rico by providing the type of real estate credit necessary to permit eligible persons who cannot secure such credit elsewhere to acquire, enlarge, or improve farms so that such farms will constitute family-type farms. (See § 366.1 of this chapter.)

(b) *Source of funds*—(1) *Public.* Farm Ownership direct loans are made from funds authorized to be appropriated by Title I of the Bankhead-Jones Farm Tenant Act, as amended by the Farmers Home Administration Act of 1946. Such funds are appropriated by Congress in the annual Department of Agriculture Appropriation Acts.

(2) *Private.* Farm Ownership insured mortgage loans are made from funds furnished by private lenders. The utilization of such funds is authorized by Title I of the Bankhead-Jones Farm Tenant Act, as amended by the Farmers Home Administration Act of 1946. Upon appropriation of the sum authorized to be appropriated for the farm tenant mortgage insurance fund, eligible mortgages or deeds of trust securing loans made by private lenders may be insured by the Farmers Home Administration.

(c) *Types of loans.* There are three types of Farm Ownership loans; Tenant Purchase (TP) loans, Farm Enlargement (FE) loans, and Farm Development (FD) loans.

(1) Tenant Purchase loans are loans made or insured to enable eligible persons who do not own farms to purchase and improve family-type farms. (See § 366.1 of this chapter.) The proceeds of such loans may be used to:

(i) Purchase family-type farms, and in connection therewith to:

(*a*) Repair and improve family-type farms to meet established standards of health, safety, comfort and convenience, and otherwise put them in livable and operable condition.

(*b*) Provide for such basic land and soil improvements, as properly do not belong to recurring year-to-year operation of the farms, necessary to make the farms family-type farms.

(*c*) Provide for necessary water and water facilities.

(*d*) Pay all authorized fees and expenses incident to the making or insuring of the loans which are required to be paid by the purchaser and which he cannot pay from other funds.

(ii) Purchase, in certain specially defined cases in which it is economically unsound to acquire the land necessary to the farming operation, headquarters units which, when operated with adjacent lands dependably available to the operator for the term of the loan, will constitute family-type farms.

(2) Farm Enlargement loans are loans made or insured to enable eligible persons who own farms which are definitely too small and inadequate to constitute family-type farms, to enlarge, repair, or improve such farms so that they will definitely constitute family-type farms. (See § 366.1 of this chapter.) The proceeds of such loans may be used to purchase sufficient additional land to enlarge undersized farms into family-sized farms, and in connection therewith to:

(i) Repair and improve the enlarged farms to meet established standards of health, safety, comfort and convenience, and otherwise put them in livable and operable condition.

(ii) Provide for such basic land and soil improvements, as properly do not belong to recurring year-to-year operation of the farms, necessary to make the farms family-type farms.

(iii) Provide for necessary water and water facilities.

(iv) Refinance existing debts on farms to be enlarged provided that such refinancing is incidental to the primary purpose of enlargement of undersized farms.

(v) Pay all authorized fees and expenses incident to the making or insuring of the loans which are required to be paid by the purchaser and which he cannot pay out of other funds.

(3) Farm Development loans are loans made or insured to enable eligible persons who own farms of adequate acreage to constitute family-size farms, but which, because of under-improvement are definitely not sufficiently productive to constitute family-type farms (see § 366.1 of this chapter), but can definitely be made sufficiently productive by proper repair and improvement to constitute family-type farms. When Farm Development loans are made or insured to finance major land or building improvements, funds for minor repairs or improvements may be included, but such loans will not be made solely for the purpose of minor and incidental repairs and improvements. In observing these principles, Farm Development loans, irrespective of refinancing incidental thereto, rarely will be for improvements costing less than $800 or $1,000. No land will ever be purchased with the proceeds of Farm Development loans. The proceeds of such loans may be used to repair and improve underimproved family-size farms to meet established standards of health, safety, comfort and convenience, and otherwise put them in livable and operable condition, and in connection therewith to:

(i) Provide for such basic land and soil improvements, as do not properly belong to recurring year-to-year operation

of the farms, necessary to make the farms family-type farms.

(ii) Provide for necessary water and water facilities.

(iii) Refinance existing debts on underimproved family-size farms; *Provided,* That such refinancing is incidental to the primary purpose of development of the underimproved farms.

(iv) Pay all authorized fees and expenses incident to the making or insuring of the loans which are required to be paid by the borrower and which he cannot pay out of other funds.

(d) *Farm Ownership loans to Disabled Veterans.* Tenant Purchase, Farm Enlargement or Farm Development loans may be made or insured to enable eligible veterans drawing disability pensions to acquire, enlarge, or improve farm units of sufficient size to meet the farming capabilities of such veterans and afford them income which, together with their pensions, will enable them to meet living and operating expenses and the amounts due on their loans.

4. Section 366.11 *Criteria for selection of farms* in Chapter III of Title 6, Code of Federal Regulation (6 CFR, Cum. Supp., Chapter III, Subchapter G), is revoked, and §§ 366.1, 366.2, and 366.3 are added as follows:

§ 366.1 *Selection of Farms*—(a) *General.* (1) Farm selection is a fundamental step in making direct or insured Farm Ownership loans. It is essential that applicants, FHA Supervisors and County FHA Committeemen understand thoroughly the standards to be considered in farm selection. After applicants have acquired a property understanding regarding the basic objectives of the Farm Ownership program, they will be given wide latitude in the selection of farms they desire to purchase.

(2) Under the FO program, either efficient family-type farm-management units will be acquired or improved, or undersized or under-improved farms will be enlarged or improved into efficient family-type farm-management units. The one exception to this requirement will be in the case of disabled veterans who, under certain conditions, may acquire, enlarge or improve farms which are less than efficient family-type farm-management units.

(b) *Standings for selection of efficient family-type farm-management units.* (1) Definition: An efficient family-type farm-management unit is a farm which furnishes full, productive, year-round employment for an average farm family and one which an average farm family can operate successfully without employing outside labor, except during brief peak-load periods at planting or harvest time. Such a farm must have the capacity to yield income on the basis of long-time prices which will maintain an average farm family according to acceptable living standards, pay annual operating expenses, pay for and maintain necessary livestock and farm and home equipment and pay off the loan.

(i) In individual cases, allowances may be made with respect to employing outside labor while children are too young to be of such assistance or after they have grown up and left home.

(ii) A farm on which a tenant family will be expected to reside and supplement the labor of the owner and his family, or on which an average family would require hired help a considerable part of the time, is not an efficient family-type farm-management unit and will not be approved.

(iii) Nonfarm income will not be considered in determining whether a farm, as finally developed, will be an efficient family-type farm-management unit.

(2) As used in Chapter III of Title 6 in the Code of Federal Regulations, the term "family-type farm" will mean an efficient family-type farm-management unit.

(c) *Standards for selection of farms which are less than efficient family-type farm-management units in cases of disabled veterans.* Farms that are less than efficient family-type farm-management units may be acquired, enlarged or improved by eligible war veterans who are receiving disability pensions, *Provided,* That:

(1) The size and character of the farm are suitable to the particular needs and capabilities of the disabled veteran.

(2) The farm has the capacity to produce an annual income which, together with the veteran's disability pension, will enable him to meet his normal obligations. These obligations will include family-living expenditures which will maintain acceptable standards of living for the veteran and his family, as well as operating expenses, and amounts due on his loan.

(3) The unit is larger than a mere garden plot or rural residence.

(4) A satisfactory farm plan can be carried out with the available family labor.

(5) The unit is of such character and productivity that it will not be necessary for the disabled veteran to use all or part of his pension to support unprofitable farming operations. In other words, the income from the operation of the unit as a farm, including the value of food produced for home use, should at least offset the actual operating expenses chargeable to farm operations such as seed, fertilizer and repayment of that portion of the loan represented by the farming operations. Such expenses, however, need not include cash family-living costs or maintenance, taxes, insurance and loan costs chargeable to the residence. In determining the loan and other costs chargeable to the residence, the valuation of the residence should be consistent with the depreciated value shown on Form FHA–43, "Appraisal of Buildings for Insurance."

(6) Farm income and disability compensation will constitute the major sources of income. Part-time farms, on which disabled veterans plan to live and devote most of their activity to nonfarm employment, should not be approved.

(d) *General criteria for selection of Farm Ownership farms.* (1) The making or insuring of a Farm Ownership loan depends upon a satisfactory title to the farm being vested in the borrower in order to secure a first mortgage or deed of trust on the farm. For this reason, a careful inquiry should be made relative to the title, legal description and boundaries of any land to be purchased, as well as any land already owned by the applicant, before time is lost in considering other aspects of the farm.

(2) In selecting farms for Farm Ownership loans, consideration should be given to base acreage allotments and assigned yields or productivity indexes upon which soil conservation payments are made.

(3) If a Farm Ownership farm is to be formed by combining separate tracts of land, the tracts preferably should be contiguous. However, a farm may consist of noncontiguous tracts if they are so situated with respect to each other that the combined unit can be operated conveniently and efficiently as a family-type farm. This is especially important in making Farm Enlargement loans, since the question of operating noncontiguous tracts is more likely to arise in connection with this type of loan.

(4) Farms approved for Farm Enlargement or Farm Development loans, as defined in § 364.3 of this chapter should be definitely undersized or underdeveloped and in their present state constitute definitely less than efficient family-type farm-management units.

(i) Enlargement or development of farms should constitute the primary purpose of Farm Enlargement or Farm Development loans. Refinancing in connection with Farm Enlargement and Farm Development loans must not constitute the primary purpose of the loans. However, since it is necessary to obtain a first mortgage or deed of trust on farms, funds for refinancing purposes may be included in Farm Enlargement and Farm Development loans.

(ii) In connection with Farm Development loans, consideration should be given to all types of improvements that may be needed to make the farm an efficient family-type farm-management unit. This will include such needed land improvements as irrigation, drainage, land clearing, terracing and basic soil treatment, as well as needed construction and repair of buildings. In some cases, a farm may be approved which needs only one type of improvement, such as construction or major repair of a building, in order to make it an efficient family-type farm-management unit. Usually, however, more than one type of improvement will be needed. Farms needing only minor building repairs or minor land improvements which are not essential to making the farm an efficient family-type farm-management unit will not be approved for Farm Development loans.

(5) Farms should not be approved which consist almost wholly of undeveloped land that requires an excessive amount of expense or labor for land improvement, and which will not produce an income sufficient to support the family, meet operating expenses and payments on the loan the first year of operation.

(6) When individual family-type farms are not available in any area, consideration should be given to the subdivision of large tracts.

(7) Farms will not be approved in areas designated for retirement from agriculture by Federal, State or county

land use planning agencies, or areas so poor that they are likely to be so designated. Outside of such areas, it will be necessary, in order to assist persons in greatest need of Farm Ownership loans, to make such loans in areas including poor as well as good land. When loans are made for the purchase of poorer grades of land, unusual care must be exercised to see that it is purchased at a price in line with its earning capacity. Land that is worn out, eroded, foul and weedy cannot be restored to productivity quickly or without great effort and expense. This fact should be taken into account in determining the present value of the land.

(8) In farm selection and approval, due consideration should be given to roads, schools, markets, and other community facilities. The tax rate on farms, the bonded indebtedness and other costs incident to irrigation and drainage, or other types of improvements, should also be considered. In irrigation areas, careful consideration should be given to the adequacy of the water supply and water rights.

(9) When a farm is not on a public road, it is essential that there be a satisfactory legal right-of-way from the farm to a public road.

(e) *Limitations in selection of Farm Ownership farms because of interest of sellers.* (1) No Farm Ownership loan will be made or insured if any member of the County FHA Committee participates in, or attempts to influence, in any manner, the selection, consideration, discussion or certification with respect to a farm in which such member, or any person related to such member within the third degree of consanguinity or affinity, has any pecuniary interest, direct or indirect, or in which any of them had such interest within one year prior to the date of certification.

(2) Unless an exception is made as provided below, a Farm Ownership loan will not be made or insured for the purchase or improvement of land when an FHA employee has an interest, direct or indirect, or when a person related to that employee by blood or marriage has an interest, direct or indirect, in the land to be purchased or improved and when an FHA employee is officially, through his FHA employment, connected with the processing, handling or approval of such loan in a manner as to enable him directly or indirectly to influence FHA decisions with respect to the processing, handling or approval of the loan. The state FHA director may make the exception and give the reasons therefor in writing, unless he is the interested FHA employee, in which case the Administrator will make and sign the exception.

(3) Farms will not be approved for Tenant Purchase or Farm Enlargement loans which involve the purchase of land owned by a parent or other near relative of an applicant, nor will a farm be approved for a Farm Enlargement or Farm Development loan on which a parent or near relative holds a mortgage, unless the state FHA director has determined before approval of the loan:

(i) That the applicant is unlikely to receive an inheritance in a short time either of title to the property or of sufficient funds to make a Farm Ownership loan unnecessary, and

(ii) That the seller's circumstances are such as to make it impracticable for him to sell the property to the applicant or to advance additional funds that would make a Farm Ownership loan unnecessary.

(f) *Preliminary farm selection*—(1) *Listing and studying farms for farm ownership applicants.* (i) When it appears that Farm Ownership applicants may have difficulty in locating and selecting desirable farms, the FHA supervisor may prepare a preliminary list of farms which he has learned are for sale. To help in the preparation of this list, a carefully worded press release may be issued. This press release may indicate that Farm Ownership loans will be made or insured in the county to eligible war veterans and other qualified persons for the purchase, enlargement or improvement of farms. It also may suggest that owners having farms for sale which may qualify for the Farm Ownership program may list them with the FHA supervisor. In addition to such press release, the FHA supervisor may learn of farms for sale through contacts with landowners, county agents, banks, insurance companies, secretaries of Federal Land Bank Associations, county recorders' offices, and others. Although tracts of land suitable for subdivision into family-type farms will be considered, large tracts of raw, undeveloped land usually are not acceptable for the Farm Ownership program. The FHA supervisor will not promote the sale of any particular farm or group of farms and will avoid commitments as to price, but he will obtain all information that is available on this subject.

(ii) Upon request of the FHA supervisor, a state Farm Ownership representative will visit a county for the purpose of assisting the County FHA Committee in the study of listed farms. The Farm Ownership representative will explain to the Committee the FHA standards for farms and the use of Form FHA–596, "Earning Capacity Report." If a study of the farms listed indicates that there is not an adequate number of of acceptable farms, the Committee, with the aid of the Farm Ownership representative, may make further efforts to discover desirable farms which are for sale. The Committee will authorize the inclusion of such farms on the tentatively approved list as appear upon preliminary examinations to be acceptable, provided it is reasonable to assume that they may be obtained at justifiable prices. Commitments as to prices should be avoided in this preliminary listing of farms.

(iii) In order to keep requests for appraisal services to a minimum, the FHA supervisor and County FHA Committees should assist and advise applicants in the selection of farms so that such requests will be limited, to the fullest extent practicable, to farms which are reasonably certain to qualify for the Farm Ownership program.

(2) *Selection of farms by Farm Ownership applicants.* In the course of reaching a proper understanding with applicants, they should be informed of the type, size and general characteristics of farms which are suitable to them and acceptable for the program in the particular area. Applicants may select a farm previously approved by the County FHA Committee, or any other farm which later may be approved by the Committee. County FHA Committeemen, state Farm Ownership representatives and FHA supervisors should render assistance to applicants in this preliminary selection of farms. In this connection, any commitment to sellers regarding price will be avoided.

(g) *Preliminary approval of farms.* When a Farm Ownership applicant who is viewed with favor has selected a farm, the FHA supervisor will arrange for a preliminary inspection of the farm. Upon preliminary approval of the farm by the County FHA Committee, the FHA supervisor will request the services of the FHA employee authorized to appraise farms for the preparation of Form FHA–596. It is generally advisable to obtain an option before requesting such services.

(h) *Preference to war veterans.* When both a veteran and a nonveteran have been viewed with favor and are interested in the same farm at the same time, preference will be given to the veteran, provided the seller is willing to sell to either person.

§ 366.2 *Optioning of farms*—(a) *General.* (1) An option will be taken in the name of the Tenant Purchase or Farm Enlargement applicant, unless the land to be optioned consists of a tract to be subdivided. In the process of obtaining an option, any qualified person may render assistance.

(2) While the information in Form FHA–596, "Earning Capacity Report," will furnish a basis for arriving at a fair option price, it is generally advisable to obtain an option prior to the preparation of Form FHA–596. This is a safeguard against incurring the expense of appraisal and other work in connection with a farm which it may not be possible to purchase.

(3) Farms should not be optioned at prices that are believed to be in excess of the actual earning capacity values or when it appears that the total investment in the complete farm unit will exceed the loan limit in the county. Even though loans for the purchase of farms so optioned may not be approved, an objectionable precedent may be established that will affect adversely negotiations in connection with other properties in the community. Prior to optioning, the FHA supervisor or one or more members of the County FHA Committee should look over the farm to make certain that there is a reasonable probability that it will "appraise out". The effect on the option price of such factors as mineral rights, Agricultural Conservation Program payments and outstanding leases should be determined as promptly as possible and every effort should be made to secure the option at the lowest cash figure that the seller will accept.

(b) *Preparation of option*—(1) *Use of option forms.* (i) Options for individual units will be taken on Form FHA–

188A, or Form FHA–188B, "Option for Purchase of Farm." The FHA Supervisor will be advised by the state office whether Form FHA–188A or Form FHA–188B is to be used. When possible, it is desirable to insert in the option the time and conditions under which the applicant will be given possession of the property. It will be noted that Form FHA–188A requires the seller to furnish an abstract of title, and Form FHA–188B requires him to furnish a policy of title insurance. Title insurance will be used when it is available, and the seller will be requested to fill out an application for title insurance at the same time he signs the option. The seller will be given the choice of any title insurance company which has been approved for issuing title insurance policies in the county. In the case of a Farm Enlargement loan, the seller will select the title insurance company and will apply for title insurance on the tract which he is selling; at the same time the applicant will apply for title insurance from the same company on the tract which he owns.

(ii) Options taken by Farm Enlargement applicants will contain the following clause, inserted in the space provided for conditions peculiar to a particular transaction:

> The seller agrees that, irrespective of any other provision in this option, the buyer, or his assignees may, if the option is accepted, without any liability therefor, refuse to accept conveyance of the property described herein if the Government or other prospective Mortgagee fails or refuses to make the aforesaid loan because of defects in the title to land now owned by the buyer.

The inclusion of this paragraph will relieve the applicant of his obligation to purchase and will absolve him from possible liability for damages whenever incurable defects in the title to the original tract are disclosed, subsequent to the acceptance of the option, which prevent the closing of the loan.

(iii) Options will be prepared in an original and two copies. The seller will sign the original only, and his name will be typed on all copies. The type of loan (Tenant Purchase or Farm Enlargement) will be indicated in the upper left corner of the original and all copies. As soon as the option has been signed by the seller, it will be transmitted by the FHA supervisor to the state office as provided by § 367.1 of this chapter. One copy will be placed in the county office copy of the loan docket, and one copy will be retained by the seller.

(2) *Listing complete information on options.* Options should contain complete and accurate information on all reservations, easements, leases, water rights, or other conditions peculiar to the transaction. Such items as dates of execution and expiration, names of lessees, lessors, and areas involved, and amounts of compensation should be stated clearly. If the spaces provided on the option are insufficient for such information, extra sheets should be used and stapled to the form. Disclosure of such information at a later date causes undue delay in closing the loan. If the applicant is related to the seller, the relationship should be explained fully on an extra sheet, so that the state FHA director can make the determination required in § 366.1.

(3) *Agricultural conservation program payments.* Options should not contain assignments of Agricultural Conservation Program payments, since the Soil Conservation and Domestic Allotment Act forbids such assignments. However, the cash equivalent of the anticipated Agricultural Conservation Program payment may be taken into account in arriving at the option price, since the amount of such payment and the individuals to whom it will accrue legally can be determined readily.

(c) *Mineral rights.* (1) It is the general policy of the FHA that borrowers will hold all of the mineral rights in land purchased, improved, or refinanced with the proceeds of Farm Ownership loans. In some instances, however, sellers may refuse to transfer mineral rights, or such rights may be vested wholly or partially in third parties. In such situations, field officials are to be guided by the principle that, with respect to the minerals, the applicant should make as good a bargain as is possible in the circumstances. When an option is submitted to the state office which does not propose to convey all of the mineral rights to the applicant, the representative of the office of the Solicitor will advise the state FHA director of the facts in the case. The state FHA director, after satisfying himself that all practical efforts to obtain 100% of the mineral rights have been made, may approve the option if:

(i) The applicant has obtained, or is able to obtain, a portion of the mineral rights or guaranties of compensation, either of which is deemed adequate protection against loss in the event that the minerals are developed.

(ii) The state FHA director determines that there is little likelihood that the minerals will be developed. (This determination may be made by the state FHA director on a county basis or for a group of counties, provided the situation with respect to minerals is similar or widespread in the county or group of counties.)

(2) If the applicant does not have or cannot obtain either a sufficient portion of the mineral rights or adequate guaranties of compensation, and the state FHA director cannot determine that there is little likelihood of development of the minerals, the option may be approved only if the state FHA director finds:

(i) That the situation with respect to the minerals will not jeopardize the security interest of the mortgagee.

(ii) That it is not practicable for the applicant to select another farm.

(3) Reservations authorized on behalf of the seller should embrace the smallest fraction of the mineral rights and run for the shortest time to which the seller will agree. Where minerals are reserved by the seller, they should be named specifically in the option, and the term "other minerals" should be avoided when possible.

(i) When a family-type farm is subject to mineral reservations, approval of the option will be dependent upon a finding by the state FHA director that the reservation in question will not render the farm less than an efficient family-type farm-management unit.

(ii) When a farm which is less than an efficient family-type farm-management unit has been selected by a disabled veteran and is subject to mineral reservations, the option will not be approved unless the state FHA director finds that such a reservation does not constitute a potential impairment of the income-producing ability of the farm, or will not otherwise render the farm unsuitable for the disabled veteran.

(4) The FHA Supervisor should ascertain whether the option includes all mineral rights or whether the seller or some prior owner of the property has deeded, leased, or otherwise conveyed the whole or a part of the mineral rights. If the seller is in doubt as to whether a conveyance or lease of any part of the mineral rights has been made, or if there is a possibility that a deed, lease, or any other type of conveyance of mineral rights exists, a check will be made of the public records to determine whether there are such outstanding conveyances. If there is an outstanding deed, lease, or other conveyance of the mineral rights, the FHA supervisor will forward to the state office with the option a copy of such instrument, secured either from the seller or from the public records.

(d) *Side agreements.* (1) Side agreements between applicants and sellers involving a purchase price greater or less than the option price or any additional consideration whatsoever are in violation of the Farmers Home Administration Act. Any party entering into such side agreements or misrepresenting in any way the purchase price is subject, upon conviction, to a $2,000 fine or imprisonment for two years or both, as provided in the act and specified in the option. The FHA supervisor is responsible for informing applicants and sellers regarding these penalties.

(i) If the FHA supervisor or any employee becomes aware of a side agreement before a Farm Ownership loan is closed, the FHA supervisor will suspend processing of the loan and report the facts in the case to the state FHA director.

(ii) If the FHA supervisor or any employee becomes aware of a side agreement after a Farm Ownership loan is closed, a report of the facts in the case will be made to the state FHA director.

(iii) Further action in either case will be governed by advice received from the state FHA director, who will report the facts to the representative of the office of the Solicitor and to the representative of the Examination Division. If the representative of the office of the Solicitor finds that probable financial or criminal liability is involved, he will report his findings to the state FHA director, who will report the facts in the case to the Administrator. If the representative of the office of the Solicitor finds that probable financial or criminal liability is not involved, he will report his findings to the state FHA director who will take appropriate administrative action. Failure on the part of FHA employees to carry out the spirit and intent of these provisions with respect to side agreements will

constitute an offense of serious gravity and will be dealt with accordingly.

(2) The following courses of action are among those which may be taken by the State FHA director in cases involving side agreements after careful review of the circumstances involved:

(i) Refuse to make the loan, if it is not closed.

(ii) Return to the borrower any funds paid by or for the borrower as a result of the side agreement.

(iii) Foreclose the loan.

(iv) Recommend to the Administrator proceeding under penalty provisions of the act.

(v) Recommend appropriate disciplinary action with respect to FHA employees in cases in which they have been remiss in discharging their responsibilities or have been implicated personally in the offense committed.

(e) *Payment of one dollar consideration.* The option requires payment of one dollar ($1) by the applicant, and the money actually should be paid to the seller, since a receipt for the payment of one dollar ($1) is acknowledged specifically in the option.

(f) *Recording of option.* In some cases, it may be desirable to record the option after State office approval to prevent third parties from acquiring an interest in the optioned property. The FHA supervisor will be informed by the State office of the circumstances under which recordation is advisable. If the option is recorded, the fee will be paid by the applicant.

(g) *Assignment of option.* If paragraph 10 of Form FHA–188A or FHA–188B has not been stricken by the seller, Form FHA–188H, "Assignment of option," will be used when it is desirable to assign the option to a new Farm Ownership applicant. If the option is assigned, the FHA supervisor should send a copy of Form FHA–188H to the seller when it is completed.

(h) *Expiration of option.* (1) If in unusual circumstances the FHA supervisor is unable to send the option to the state office three weeks before the irrevocable period expires, he should send it as promptly as possible and request that it be given preferential consideration.

(2) If it becomes necessary to extend the time of expiration of the original option beyond one year, a new option will be secured by the applicant.

(3) If an option is in the state office and the seller gives ten days' written notice of termination, in accordance with the terms of the option, the FHA supervisor will wire the state office promptly so that special consideration may be given to such an option.

§ 366.3 *Certification of farms*—(a) *General.* The FHA supervisor will arrange for a meeting of the County FHA Committee to consider Form FHA–596, "Earning-Capacity Report," Form FHA–14, "Our Farm and Home Plan for 19__," Form FHA–14C, "Long-time Farm and Home Plan," and Form FHA–643, "Farm Development Plan." After they have made an examination of the farm and have given proper consideration to these forms, the Committee is ready to prepare Form FHA–491, "County Committee Certification," with respect to the certification of the farm.

(b) *Certification of farm by County FHA Committee.*

(1) The County FHA Committee legally is responsible for determining that each farm to be financed with the proceeds of a Farm Ownership loan or of a loan insured under Title I of the Bankhead-Jones Farm Tenant Act, as amended, is of such character that there is reasonable likelihood that the making or insuring of the loan with respect to the farm will carry out the purposes of the act. The County FHA Committee also is responsible for determining the amount which it finds to be the fair and reasonable value of the farm based upon its normal earning capacity, after contemplated improvements or enlargements are made. In addition, the County FHA Committee is responsible for recommending the amount and purposes of the loan and for determining that the value of the farm, as acquired, enlarged, or improved will not be in excess of the average value of efficient family-type farm-management units in the county. The County FHA Committee will certify to the above determinations on Form FHA–491.

(i) When a farm proposed for purchase by a Tenant Purchase borrower consists of separate tracts, the County FHA Committee will certify as to the fair and reasonable value of the complete farm unit, as combined and improved.

(ii) When a farm is to be enlarged by a Farm Enlargement borrower, the County FHA Committee will certify as to the fair and reasonable value of the farm, as enlarged and improved.

(iii) When a farm is to be developed by a Farm Development borrower, the County FHA Committee will certify as to the fair and reasonable value of the farm, as improved.

(2) Efficient family-type farm-management units: The total investment in a farm, as computed in § 364.2 of this chapter, should not be greater than is justified on the basis of its normal earning capacity, after contemplated improvements are made. The following determinations will be made by the County FHA Committee in certifying family-type farms:

(i) *Determination of fair and reasonable value (Farm Ownership loans).* The County FHA Committee will enter its determination of the fair and reasonable value of the farm based on its normal earning capacity, after contemplated improvements or enlargements are made, on Form FHA–491. The County FHA Committee should give due consideration to the "Earning-Capacity Report" prepared by FHA employees authorized to appraise farms. The normal earning capacity, after contemplated improvements are made, rather than income producing ability of the farm as indicated on Form FHA–14 and Form FHA–14C should be considered in arriving at this determination. The County FHA Committee should not be influenced by the amount of the proposed loan or the average value of efficient family-type farm-management units in the county, as determined by the Secretary, in making their determination, based on the "Earning-Capacity Report," and their examination of the farm. In other words, the County Committee's determination of their fair and reasonable value should represent its actual bona fide determination with respect to the particular farm under consideration.

(ii) *Determination of acquisition and refinancing costs (Farm Ownership loans).* The County FHA Committee will indicate on Form FHA–491 the amount necessary to acquire the land, free and clear of all encumbrances, to refinance any existing indebtedness on the farm, and to pay necessary fees. When Form FHA–14 and Form FHA–14C show definite possibilities of increased income under good management, the amount that can be paid for the farm or used for refinancing purposes may be slightly higher than the recommended purchase or refinancing price shown on the "Earning-Capacity Report," when necessary to acquire or enlarge a particularly desirable farm. However, the benefits of increased income, in general, should accrue to the borrower and should not be bartered away through excessive price to the seller or through unjustified payment to a lien holder.

(iii) *Determination of value less planned improvements (Farm Enlargement and Farm Development loans).* The County FHA Committee will enter its determination of "Value Less Planned Improvements" of the "Tract Owned by the Applicant" and the "Tract to be Purchased, if any," on Form FHA–493, "Value of Applicant's Unit," after a review of the recommendations of the FHA employees authorized to appraise farms.

(3) Less than efficient family-type farm-management units for disabled veterans: The total investment in a farm, as computed in § 364.2 of this chapter, for a disabled veteran should not be greater than is justified by the cash income available after farm-operating and family-living expenses are deducted from the sum of farm earnings and pension payments. The following determinations will be made by the County FHA Committee in certifying farms for disabled veterans which are less than efficient family-type farm-management units:

(i) *Determination of fair and reasonable value (Farm Ownership loans).* The County FHA Committee will enter its determination of the fair and reasonable value of the farm after contemplated improvements or enlargements are made. The County FHA Committee should give due consideration to (*a*) the "Earning-Capacity Report" prepared by FHA employees authorized to appraise farms, (*b*) the suitability of the unit to the farming capabilities of the disabled veteran and his family, (*c*) the normal market value of the farm and (*d*) other pertinent factors, such as the "Long-Time Farm and Home Plan" and the "Farm Development Plan."

(ii) *Determination of acquisition and refinancing costs (Farm Ownership loans).* The County FHA Committee will indicate on Form FHA–491 the amount necessary to acquire the land,

free and clear of all encumbrances, to refinance any existing indebtedness on the farm and to pay necessary fees. Special caution should be exercised to avoid obligating a disabled veteran beyond his capacity to pay by paying more than the farm is worth or by investing more in improvements than is justified. Exploitation of the disabled veteran's pension by paying too much for the farm should be avoided.

(iii) *Determination of value less planned improvements (Farm Enlargement and Farm Development loans).* The County FHA Committee will enter its determination of "Value Less Planned Improvements" of the "Tract owned by Applicant" and the "Tract to be purchased, if any," on Form FHA–493, "Value of Applicant's Unit," after a review of the recommendations of the FHA employee authorized to appraise farms.

(c) *Distribution of Form FHA–491.* Form FHA–491 will be prepared in an original and two copies. The original and one copy will be placed in the original loan docket, and a copy will be filed in the County Office copy of the loan docket. The original will be signed by at least two County FHA Committeemen. The names of the Committeemen who sign Form FHA–491 will be typed on all copies.

(d) *Distribution of Form FHA–493.* Form FHA–493 will be prepared in an original and one copy. The original will be placed in the original loan docket and a copy will be filed in the County Office copy of the loan docket. The original will be signed by at least two County FHA Committeemen. The names of the Committeemen who sign Form FHA–493 will be typed on the copy.

5. Subchapter G, "Farm Ownership" in Chapter III of Title 6, Code of Federal Regulations (6 CFR, Cum. Supp., Chapter III, Subchapter C), is amended to add the following part, Part 367 "Loan Processing":

§ 367.1 *County Office Routine*—(a) *Preliminary submission of option and title insurance application.* Except for Farm Development loans, the original of the option and the signed application for title insurance will be forwarded to the state office, Attention: Farm Ownership, as soon as they have been signed by the seller. When they are returned by the state office, they will be held in the applicant's file, unless corrections are indicated and resubmission is required. The option, together with the letter of approval from the representative of the office of the Solicitor, will be placed in the original loan docket when it is finally assembled. The title insurance application will be transmitted to the company or its local representative when the loan has been approved and the option accepted. (Where title insurance is not available, the title insurance application will be eliminated.) In the case of a Farm Development loan, the signed title insurance application will be held by the FHA supervisor until notification of approval of the loan is received from the district FHA supervisor.

(b) *Special items in execution and preparation of forms.* On all copies of all forms providing a space for the designation of the state and county, there will be inserted in the upper right corner the names of the state and county in which the farm to be purchased, enlarged or developed, is situated. The case number will be inserted by the county office in the space provided only when the applicant previously has been assigned an FSA or an FHA case number. The words, "Veteran" or "Nonveteran," whichever is applicable, will be typed or stamped above the heading on all copies of all forms. In the case of a disabled veteran purchasing a farm which is less than an efficient family-type farm, the words, "Disabled Veteran," will be used.

(1) *Form FHA–5, "Loan Voucher."* The type of loan (TP, FE, or FD) will be inserted on the appropriate line. The applicant will sign the original of Form FHA–5 in the space provided, and his name will be typed above his signature. The FHA supervisor will not sign the form.

(2) *Form FHA–668, "Loan Agreement and Request for Funds."* The applicant, his wife and the FHA supervisor will sign the original and one copy of Form FHA–668. The FHA supervisor will delete the inapplicable paragraph appearing in his certification on the reverse of the form. The same will apply to Form FHA–668, "Loan Agreement and Request for Funds (Deferred Advance)," when deferred construction is involved.

(3) *Form FHA–190, "Promissory Note."* The date of the promissory note, the amount of the first installment and the year in which the first installment will become due will be left blank. The remainder of the Form will be completed by the FHA supervisor. The amount of each of "the next succeeding thirty-nine installments" to be inserted will be 4,683 percent of the sum inserted as the total loan. Thereafter, the applicant and his wife will sign the original of Form FHA–190. At the time of signing, the FHA supervisor will explain to the applicant that the amount of the first installment will be determined at the time of loan closing. The amount thereof may be less, but not more, than a regular installment.

(4) *Form FHA–491, "County Committee Certification."* At least two of the three County FHA Committeemen will sign the original of Form FHA–491. The original and all copies of the form will be dated. Under items 5 and 9, the inapplicable language will be deleted. The total amount of the loan will be inserted under item 9A or 9B.

(5) *Form FHA–476, "Transmittal and Flow Sheet."* Under "Type of Submission" in the upper right corner, a check will be placed in the space provided to identify the loan as initial, subsequent, or deferred advance. If submission is of any other type, it will be specified in the space provided. The loan type will be identified by checking the appropriate type of loan or by specifying the type in the space provided.

(c) *Execution of informal agreement.* Each new Farm Ownership borrower and his wife will be required to sign Form FHA–317, "Agreement." This informal agreement with the FHA sets forth obligations which the applicant and his wife assume when they accept a Farm Ownership loan. Its purpose is to give the applicant and his wife a clear understanding of what is expected of those who obtain Farm Ownership loans, and it should be signed by them with full knowledge of what it contains. Form FHA–317 will be signed in duplicate not later than the signing of Form FHA–668, "Loan Agreement and Request for Funds." The original will be retained by the applicant, and the copy will be placed in the county office file. The FHA supervisor will sign as representative of the FHA.

(d) *Preparation of loan docket.* (1) The FHA supervisor will assemble the loan docket when the County FHA Committee has certified on Form FHA–491 to the eligibility of the applicant and the reasonable value of the farm.

(2) The loan docket will be checked thoroughly by a competent person in the county office to determine whether the requirements with respect to mechanical accuracy have been met fully.

(e) *Action by district FHA supervisor.* (1) Analysis of loan: It is the responsibility of the district FHA supervisor to determine that each Farm Ownership loan is sound and that there is a reasonable likelihood that the family will be successful on the farm. Before approving any Farm Ownership loan, he will make a comprehensive and objective analysis of the loan, utilizing all available information regarding the family, the farm and the plans of operation. Special attention will be necessary with respect to applications for Farm Ownership loans to disabled veterans who desire to purchase less than efficent family-type farm-management units.

(2) Check of loan limits: The district FHA supervisor will ascertain for all Farm Ownership loans that the total proposed investment in the farm does not exceed the county loan limit. He will check also the fair and reasonable value of the farm as certified by the County FHA Committee to ascertain that such certified value does not exceed the average value of efficient family-type farm-management units in the county, as determined by the Secretary of Agriculture.

(3) For all loans to veterans, the district FHA supervisor will check the evidence of discharge or release, and attach it to the loan approval letter provided in subparagraph (4) (ii) of this paragraph, for the county office copy of the loan docket. In the case of a veteran with pensionable disability, he will check also the written evidence from the Veterans' Administration to verify the amount of and the reason for the pension.

(4) Approval of loan and notification to FHA supervisor:

(i) It is intended that approval or disapproval of loans by the district FHA supervisor generally will be based upon an "on-the-ground" review. The ordinary practice, therefore, will be for the district FHA supervisor to pass upon the loan in the county office after visiting the farm and family. There may be circumstances, however, which make it impossible or unnecessary for the district FHA supervisor to pass upon loans in the county office. When justified, State FHA

directors may authorize the district FHA supervisor to have Farm Ownership loan dockets mailed to the district office for review.

(ii) If the loan is approved, the district FHA supervisor will sign the original and one copy of Form FHA–643, the original and one copy of Form FHA–668, the original and one copy of Form FHA–668 (Deferred Advance), if any, and will initial Form FHA–476. He will also furnish the FHA supervisor with a letter tentatively approving the loan and, except for a Farm Development loan, authorizing him to notify the applicant to accept the option. The loan docket then will be forwarded to the area finance office for mechanical examination and obligation of funds.

(iii) If the loan is disapproved, the district FHA supervisor will return the loan docket to the FHA supervisor with a letter explaining the reasons for disapproval and giving appropriate suggestions for correction of the loan docket, if possible. The FHA supervisor will notify the applicant of the disapproval of the loan and the reasons therefor.

(f) *Corrections of errors.* If a loan docket is returned from the area finance office for correction, the FHA supervisor will make such corrections as are indicated and forward the docket as directed.

(g) *Accepting option and ordering title insurance.* When the FHA supervisor has been notified by the district FHA supervisor of the tentative approval of a Tenant Purchase or Farm Enlargement loan, he will prepare the acceptance of option letter, Form FHA–191, "Acceptance of Option (Vendor to furnish Abstract)," or Form FHA–191B, "Acceptance of Option (Vendor to furnish Title Insurance)," in an original and two copies, as soon as he has ascertained definitely that the applicant intends to proceed with the loan as planned. The original of the option acceptance letter will be signed by the applicant, and by his wife if she is named in the option, and mailed to the seller. One copy will be forwarded to the state office and one copy retained in the county office. If it is necessary that the seller submit a deposit for furnishing an abstract in connection with placing the order for title insurance, information to that effect will be added to the option acceptance letter, and it will be the responsibility of the FHA supervisor to see that the necessary action is taken by the seller. The signed application for title insurance will be removed from the file, where it has been held pending approval of the loan, and transmitted by the FHA supervisor to the local representative of the title insurance company or to the central office of the company, whichever is customary.

(1) On the copy of the option acceptance letter which is forwarded to the state office, the FHA supervisor will indicate:

(i) The total amount of the loan. He will show in parentheses the breakdown of the total amount between the immediate advance and the deferred advance, if any.

(ii) The date of mailing of the title insurance application.

(iii) The name of the title insurance company.

(2) If title insurance is not used, subparagraph (1) (ii) and (iii) of this paragraph will be omitted.

(3) In the case of a Farm Development loan, the signed application for title insurance will be transmitted in the usual manner. The information required by subparagraph (1) of this paragraph, will be forwarded to the State Office by separate letter.

(h) *Cancellation of loan.* If a borrower requests that his loan be canceled or if it becomes necessary for the state FHA director or his designee to order the cancellation of a loan after approval and prior to closing, every effort will be made to secure the execution of Form FHA–668B, "Cancellation of Loan Agreement." Form FHA–668B will be prepared in an original and three copies. The original will be signed by the borrower and the district FHA supervisor. One copy will be filed in the county office copy of the loan docket and one copy given to the borrower. The original and remaining copy will be sent to the state office, Attention: Farm Ownership. If it is impossible to secure the execution of Form FHA–668B, a letter requesting cancellation of the loan and stating the facts in the case will be sent to the state office, Attention: Farm Ownership. If the check is received subsequently in the county office, it will be returned to the U. S. Treasury Regional Disbursing Office with Treasury Form 1725, "Designation as agent and receipt for checks." A request for cancellation and a definite statement of reasons therefor will be written on Treasury Form 1725. If a check has been received but not cashed, it will be returned to the Disbursing Office with a letter containing a request for cancellation and giving the reasons therefor. A copy of the letter to the Disbursing Office will be forwarded to the state office. If the check has been cashed, the borrower will refund the loan by remitting a check payable to the Treasurer of the United States and countersigned by the FHA supervisor; and the items will be scheduled to the disbursing officer's special deposits account. No interest will be charged in a case of this kind. When the original note stamped "Canceled" is received in the county office, the original note will be returned to the borrower.

(i) *Reduction in amount of loan.* (1) If the original estimate for any Farm Ownership loan is found to be too high, before the check has been delivered to the borrower, the borrower, his wife, and the district FHA supervisor will execute Form FHA–668A, "Amendment to Loan Agreement." Form FHA–668A will be prepared in the same number of copies and distributed as outlined in paragraph (d) of this section, for Form FHA–668. Form FHA–668A will be transmitted to the state office for forwarding to the area finance office so that the obligation may be reduced. If the check has been issued, it must be returned for cancellation. A new Form FHA–190, Form FHA–5, Form FHA–643, and Form FHA–491 will be submitted for the reduced amount of the loan.

(2) If the check has been deposited in the borrower's supervised bank account, the excess will be refunded by certified check. The amortization schedule may be recalculated if requested by the borrower.

(j) *Increase in amount of loan.* (1) If the original estimate for any Farm Ownership loan is found to be too low before the check has been deposited in a supervised bank account, and before the fiscal year during which the funds for the original loan were obligated has expired, a request, properly explained, should be sent immediately to the state office for the return of the original docket. The borrower and his wife will execute Form FHA–668B (See paragraph (h) of this section). The check, if it has been issued, should be canceled and a new Form FHA–491, Form FHA–5, Form FHA–668, Form FHA–190, Form FHA–43, and Form FHA–643, should be submitted for the total amount of the loan as increased.

(2) If the original estimate for any Farm Ownership loan is found to be too low and the check has not been received, but the fiscal year during which the funds for the original loan were obligated has expired, a subsequent loan should be requested.

(3) If the original estimate for any Farm Ownership loan is found to be too low, but the check has been received and deposited in a supervised bank account, a subsequent loan should be requested.

(k) *Loss by fire between acceptance of option and closing of loan.* If there is an unreplaced loss or damage to the optioned property by fire or other casualty between the date of the option and the closing of a Tenant Purchase or Farm Enlargement loan, the following actions may be taken:

(1) The borrower may accept conveyance of title, provided the purchase price is adjusted adequately to compensate for the loss. This adjustment should be in writing and should be submitted to the state director or his designee, who will determine (i) that the farm and home plans are not affected adversely and (ii) that the adjustment is sufficient to enable the borrower by means of the initial loan to purchase the land and to repair or replace the damaged or destroyed buildings in accordance with the minimum standards for construction. In the event the proposed adjustments require a substantial increase in the amount of the loan for repairs and construction and a smaller amount for the purchase price of the land, the state FHA director shall request another certification by the County FHA Committee on Form FHA–491.

(2) When adjustments cannot be made on the above basis, the borrower should refuse to accept conveyance under the terms of Form FHA–188A or Form FHA–188B.

(l) *Occupancy of farms by tenant purchase and farm enlargement borrowers.* The acceptance of the option makes the sale of the farm conditional upon delivery of satisfactory title by the seller. When the acceptance of option letter Form FHA–191 or Form FHA–191B has been mailed to the seller, the borrower will arrange to occupy and operate the farm as soon as practicable, under either of the following circumstances.

(1) Possession between acceptance of option and closing of loan: When it is desirable for the borrower to start farming operations in the period between acceptance of the option and closing of the loan, he may lease the farm from the seller by using Form FHA–189, "Short-Term Lease of Optioned Land." This lease adjusts the rent to be paid by the borrower to that portion of the crop year during which the seller retains title to the farm, and provides for payment by the seller of maintenance costs during the same period. Provisions for proration of taxes are contained in the option, Form FHA–188A or Form FHA–188B, which also contemplates that any insurance coverage prior to conveyance is a responsibility of the seller.

(2) Possession after closing of loan: In the event the borrower cannot occupy the farm during the crop year in which the loan is closed, an understanding should be reached with the seller regarding rents, right of entry, and other pertinent questions in connection with loan closing. In cases where the seller is to remain on the farm, Form FHA–198, "Short-Term Lease (Between Purchaser and Seller)," shall be executed. In cases where the seller desires to reserve certain rights, Form FHA–129, "Temporary Cropping License," shall be executed. In cases where a tenant is occupying the farm and will not give possession, Form FHA–199, "Agreement (Between Seller, Purchaser and Tenant)," should be executed.

(3) Forms FHA–189, FHA–129, and FHA–198 will be prepared and signed in an original and three copies. The original will be retained by the seller, one copy will be retained by the borrower, one copy will be filed in the county office loan docket, and one copy will be sent to the state office to be filed in the borrower's case file. Form FHA–199 will be prepared and signed in an original and four copies. The original and first three copies will be distributed in the same manner as Form FHA–189 and one copy will be retained by the tenant.

(m) *Closing of the loan.* (1) No loan will be closed until closing instructions have been received from the representative of the office of the Solicitor and it is ascertained definitely that the borrower intends to live on and operate the farm as planned. No loan will be closed when it is intended to transfer the farm to another applicant nor where it is known that the borrower does not intend to fulfill his loan agreement.

(2) Deposit of check: The check issued to the borrower in care of the FHA supervisor will be deposited in a supervised bank account.

(i) When a Farm Ownership loan check has been issued and for any reason cannot be delivered within 21 days from the date of the check, or there is reasonable doubt as to whether the loan can be closed, the loan check will be returned to the U. S. Treasury Regional Disbursing Office with Treasury Form 1725. If the loan check is to be returned to the county office on a specific date, such date must be stipulated on Treasury Form 1725 and must be within 90 days from the original date of the check. If the loan check is to be held for an indefinite period, a statement to that effect should be written on Treasury Form 1725, and the area finance office should be informed as to the desired disposition of the check within 75 days from its date; otherwise automatic cancellation will be effected.

(ii) When a Farm Ownership loan check, which has been received in the county office, is lost or destroyed before delivery to the payee, the FHA supervisor immediately will notify the appropriate U. S. Treasury Regional Disbursing Officer in writing to stop payment and will request the forms necessary for the issuance of a substitute check. The notification will be forwarded to the regional disbursing officer through the area finance office. Upon receipt of these forms, the FHA supervisor will have them executed and returned to the disbursing office so that a substitute check may be issued. Under no circumstances will the FHA supervisor process a new loan voucher for a substitute check.

(3) In a case where title insurance is used, a check for the amount due the seller on the purchase price will be drawn by the borrower, countersigned by the FHA supervisor, and given to the local title attorney of the insurance company for delivery to the seller at the proper time in the closing of the loan. In a case where title insurance is not available, the closing instructions from the representative of the office of the Solicitor will include advice to the FHA supervisor as to payment to the seller.

(4) In cases in which income is to be derived by the borrower from a mineral lease or other existing agreement pertaining to the property at the time of purchase, the state FHA director will determine the percentage or share of the income which equitably should be paid to the Government as "extra payments" on the loan. Form FHA–253A, "Assignment of Income From Property to be Mortgaged," will be prepared in an original and three copies and executed by the borrower and his wife in an original and one copy at the time of loan closing. The original will be forwarded to the state office and the executed copy and a conformed copy will be sent to the lessee with the request that the conformed copy be signed, and returned to the county office. Upon receipt of the conformed copy signed by the lessee, the FHA supervisor will forward it to the state office. The remaining copy should be retained in the county office loan docket. If he deems it advisable, the state FHA director, upon advice of the representatives of the office of the Solicitor, may require the acknowledgment or recordation of the assignment. Any cost incident thereto shall be borne by the borrower. At the time Form FHA–253A is executed, appropriate notations will be made on Form FHA–473, "Area Guide Card," to insure that the proceeds, or a portion of the proceeds, from the transaction are remitted at the proper time.

(5) The amount of the first installment on the loan and the year in which it will become due will be inserted on Form FHA–497, "Notification of First Payment Date," at the time the borrower and his wife sign the mortgage or deed trust. The amount of the first installment, not to exceed 4.683% of the loan, will be agreed upon mutually by the FHA supervisor and the borrower, taking into consideration the borrower's financial circumstances, and the extent to which he has received income from the farm during the calendar year preceding the date of the first installment. The FHA supervisor should advise the borrower, in the event of disagreement, that it is the duty of the FHA supervisor to determine the amount of the first installment based on the foregoing conditions. The date of the first installment will be the first March 31 following the date of the borrower's loan check, regardless of the date on which the loan is closed. For example, if a loan check is issued in September 1947 and the loan is closed in October 1947, the date of the first payment will be March 31, 1948. However, if a loan check is issued in February 1947 and the loan is not closed until April 1947, the date of the first payment will be March 31, 1947. In this case a nominal first installment such as one dollar would be sufficient, unless the borrower desires to pay more. This first installment will be scheduled to the Treasury at the same time Form FHA–497 is sent to the state office. Form FHA–497 will be completed in an original and one copy both of which will be signed by the borrower, his wife and the FHA supervisor. It is important that the original be transmitted to the state office immediately after the closing of the loan. The copy will be filed in the borrower's county office case file. The amount of the first installment and the year in which it is payable will be inserted on the county office copy of Form FHA–190, "Promissory Note," and the note will also be dated to conform with the date of the check.

(6) When there are insurable buildings on the farm, the FHA supervisor will attach to Form FHA–497 either a standard insurance policy submitted by the borrower, or Form FHA–42, "Valuation Report for Insurance," with the borrower's check for the premium.

(7) When the closing instructions from the representative of the office of the Solicitor include a recommendation that a homestead declaration be filed, the FHA supervisor will inform the borrower accordingly and see that he thoroughly understands the advantages as outlined by the representative of the office of the Solicitor. In the event the borrower elects to file a homestead declaration, the FHA supervisor will assist him in taking the necessary steps.

(8) For purposes of the Farm Ownership program, a Tenant Purchase or a Farm Enlargement loan is considered closed when the deed and mortgage (or deed of trust) are filed for record. A Farm Development loan is considered closed when the mortgage or deed of trust is filed for record. As soon as the recorded mortgage is received in the county office, it will be sent to the representative of the office of the Solicitor.

(n) *Notification of borrower's new address.* As soon as a Farm Ownership borrower has occupied his farm, the FHA supervisor will complete Form FHA–113, "Advice of Borrower's Change of Ad-

dress," in an original and three copies; the original and one copy will be transmitted to the area finance office, one copy to the state office, and one copy will be retained in the county office.

(60 Stat. 1062; Order, Secretary of Agriculture, Oct. 14, 1946, 11 F. R. 12520)

[SEAL] DILLARD B. LASSETER,
Administrator,
Farmers Home Administration.

MAY 15, 1947.

Approved: May 28, 1947.

CLINTON P. ANDERSON,
Secretary of Agriculture.

[F. R. Doc. 47-5262; Filed, June 3, 1947; [illegible]]

TITLE 7—AGRICULTURE

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders)

PART 942—MILK IN NEW ORLEANS, LA., MARKETING AREA

Sec.
942.0 Findings and determinations.
942.1 Definitions.
942.2 Market administrator.
942.3 Reports of handlers.
942.4 Classification.
942.5 Minimum prices.
942.6 Application of provisions.
942.7 Determination of uniform price to producers.
942.8 Payment for milk.
942.9 Expense of administration.
942.10 Effective time, suspension, or termination.
942.11 Liability of handlers.
942.12 Agents.
942.13 Separability of provisions.

AUTHORITY: §§ 942.0 to 942.13, inclusive, issued under 48 Stat. 31, 670, 675, 49 Stat. 750, 50 Stat. 246; 7 U. S. C. 601 et seq.

§ 942.0 *Findings and determinations*—(a) *Findings upon the basis of the hearing record.* Pursuant to Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), and the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR, Cum. Supp., 900.1 et seq.; 10 F. R. 11791; 11 F. R. 7737), a public hearing was held December 19–20, 1946, inclusive, upon certain proposed amendments to the tentatively approved marketing agreement and to the order, as amended, regulating the handling of milk in the New Orleans, Louisiana, marketing area. It is hereby found upon the basis of the evidence introduced at such hearing, in addition to the other findings made prior to or at the time of the original issuance of said order and of each amendment thereto (which findings are hereby ratified and affirmed, save only as such findings are in conflict with the findings hereinafter set forth), that:

(1) The order regulating the handling of milk in the said marketing area, as amended and as hereby amended, will tend to effectuate the declared policy of the act;

(2) The prices calculated to give milk produced for sale in the said marketing area a purchasing power equivalent to the purchasing power of such milk, as determined pursuant to sections 2 and 8 (e) of the act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supplies of and demand for such milk, and the minimum prices set forth in the said order, as amended and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order, as amended and as hereby further amended, regulates the handling of milk in the same manner, and is applicable only to persons in the respective classes of industrial and commercial activity, specified in a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* The necessity of the immediate revision of the pricing provisions of this order, as amended, to reflect current marketing conditions is evidenced by the recent disorder in the New Orleans, Louisiana, milk marketing area. Since the publication in the FEDERAL REGISTER, on March 14, 1947 (12 F. R. 1753), of the Acting Assistant Administrator's Report, handlers have been paying the prices proposed therein, which are the same as the prices contained in this part.

In view of the foregoing any delay in the effective date of this order, as amended and as hereby amended, beyond that specified in this part, will seriously threaten the supply of milk for the New Orleans, Louisiana, marketing area and therefore publication of this order not less than 30 days prior to its effective date (see § 4 (c), Administrative Procedure Act, Pub. Law 404, 79th Cong., 60 Stat. 237) is impracticable and contrary to the public interest.

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the milk covered by this order, as amended) of at least 50 percent of the volume of milk covered by this order, as amended, and as hereby further amended, which is marketed within the New Orleans, Louisiana, marketing area, refused or failed to sign the tentatively approved marketing agreement regulating the handling of milk in the said marketing area; and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said tentatively approved marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order, amending the order, as amended, is the only practical means pursuant to the declared policy of the act of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order, further amending the aforesaid order, as amended, is approved or favored by at least two-thirds of the producers who participated in a referendum on the question of its approval and who, during the determined representative period (February, 1947), were engaged in the production of milk for sale in the said marketing area.

It is hereby ordered, That such handling of milk in the New Orleans, Louisiana, marketing area as is in the current of interstate or foreign commerce or as directly burdens, obstructs, or affects such commerce, shall from the effective date hereof be in conformity to, and in compliance with, the terms and conditions of the aforesaid order, as amended, and as hereby further amended, and the aforesaid order, as amended, is hereby further amended to read as follows:

§ 942.1 *Definitions.* The following terms shall have the following meanings:

(a) "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended.

(b) "Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the United States authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

(c) "New Orleans, Louisiana, marketing area," hereinafter called the "marketing area," means the cities, towns, and villages of New Orleans in Orleans Parish; Gretna, Westwego, Marrero, Harvey, Metairie, and Belle Chasse in Jefferson Parish; Poydras, St. Bernard, Violet, Meraux, Chalmette, and Arabi in St. Bernard Parish; all in the State of Louisiana.

(d) "Person" means any individual, partnership, corporation, association, or any other business unit.

(e) "Producer" means a person who in conformity with the applicable health regulations for milk for consumption as milk in the marketing area produces milk which is received at a city or country plant.

(f) "Handler" means a person who operates a city or country plant.

(g) "City plant" means a plant where milk is processed and packaged and from which milk is distributed as Class I milk in the marketing area.

(h) "Country plant" means a plant at which milk is received from producers and from which milk or cream is received at a city plant.

(i) "Delivery period" means the current marketing period from the first to, and including, the last day of each month.

(j) "Market administrator" means the agency which is described in § 942.2.

(k) "Cooperative association" means any cooperative association of producers which the Secretary determines (1) to have its entire activities under the control of its members, and (2) to have and to be exercising full authority in sale of milk of its members.

(l) "Other sources" means sources other than producers or other handlers.

(m) "Producer-handler" means any person who is both a producer and a handler and who receives no milk from other producers or from other producer-handlers in bulk: *Provided,* That (1) the

maintenance, care, and management of the dairy animals and other resources necessary to produce the milk are the personal enterprise of and at the personal risk of such person in his capacity as a producer, and (2) the processing, packaging, and distribution of milk are the personal enterprise of and at the personal risk of such person in his capacity as a handler.

§ 942.2 *Market administrator*—(a) *Designation.* The agency for the administration in this part shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

(b) *Powers.* The market administrator shall:

(1) Administer the terms and provisions in this part.

(2) Report to the Secretary complaints of violations of the provisions in this part.

(3) Make rules and regulations to effectuate the terms and provisions in this part.

(4) Recommend amendments to the Secretary.

(c) *Duties.* The market administrator shall:

(1) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary.

(2) Pay out of the funds provided by § 942.9, the cost of his bond, his own compensation, and all other expenses necessarily incurred in the maintenance and functioning of his office.

(3) Keep such books and records as will clearly reflect the transactions provided for herein, and surrender the same to his successor or to such other person as the Secretary may designate.

(4) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within 2 days after the date upon which he is required to perform such acts, has not (i) made reports pursuant to § 942.3 or (ii) made payments pursuant to § 942.8 and § 942.9.

(5) Promptly verify the information contained in the reports submitted by handlers.

§ 942.3 *Reports of handlers*—(a) *Periodic reports.* On or before the 5th day of each delivery period, each handler, except as set forth in paragraph (c) of this section, shall report to the market administrator in the detail and on forms prescribed by the market administrator, with respect to all milk and any skim milk, cream, or other milk products which were, during the preceding delivery period, purchased or received from (1) producers, (2) other handlers, and (3) other sources; the receipts at each plant; the butterfat content; and the utilization thereof.

(b) *Reports of payments to producers.* On or before the 20th day of each delivery period, each handler shall submit to the market administrator such handler's producer payroll for the preceding delivery period, which shall show the total pounds of milk received from each producer, the average butterfat content of such milk, and the net amount of payment to such producer with the prices, deductions, and charges involved.

(c) *Reports of producer-handlers.* Producer-handlers shall report to the market administrator at such time and in such manner as the market administrator may request.

(d) *Verification of reports and payments.* The market administrator shall verify all reports and payments of each handler by audits of such handler's records and the records of any other handler or person upon whose utilization the classification of milk depends. Each handler shall keep adequate records of receipts and utilization of skim milk and butterfat and shall, during the usual hours of business, make available to the market administrator or his representative such records and facilities as will enable the market administrator to:

(1) Verify the receipts and utilization of all skim milk and butterfat and, in the case of errors or omissions, ascertain the correct figures;

(2) Weigh, sample, and test for butterfat content milk and milk products; and

(3) Verify payments to producers.

§ 942.4 *Classification*—(a) *Basis of classification.* All skim milk and butterfat contained in milk, skim milk, cream, and other milk products required to be reported shall be classified by the market administrator in the classes set forth in paragraph (b) of this section.

(b) *Classes of utilization.* Subject to the conditions set forth in paragraphs (c) and (d) of this section, the classes of utilization of milk shall be as set forth in this paragraph: *Provided,* That no skim milk or butterfat, as the case may be, shall be classified as Class II or Class III, during any of the delivery periods of August through March if the total receipts of skim milk or butterfat in milk received from producers during the preceding delivery period is less than 90 percent of the utilization of skim milk or butterfat, respectively, by all handlers, in Class I (determined in accordance with subparagraphs (1), (2), and (3) of this paragraph):

(1) Class I shall be all skim milk and butterfat the utilization of which is not established as Class II or Class III.

(2) Class II shall be all skim milk and butterfat used in cheese other than Cheddar, ice cream, and ice cream mix.

(3) Class III shall be all skim milk and butterfat (i) disposed of other than in the form of milk, skim milk, buttermilk, flavored milk, flavored milk drinks, sweet or sour cream (for consumption as cream, including any mixture of cream and milk or skim milk, in fluid form irrespective of the butterfat content), cheese other than Cheddar, ice cream, and ice cream mix; and (ii) accounted for as actual plant shrinkage, but not in excess of 2 percent respectively of the total receipts of skim milk and butterfat from producers.

(c) *Responsibility of handlers and reclassification of milk.* (1) In establishing the classification of skim milk and butterfat as required in paragraphs (b) and (d) of this section, the burden rests upon the first handler who receives such skim milk or butterfat to prove to the market administrator that such skim milk or butterfat should not be classified as Class I milk.

(2) Any skim milk or butterfat classified in one class shall be reclassified if such skim milk or butterfat is later used or disposed of (whether in original or other form) by any handler in another class, in accordance with such latter use or disposition.

(d) *Transfers.* (1) Subject to the conditions set forth in paragraph (c) of this section, and subparagraph (2) of this paragraph, skim milk and butterfat, when transferred in the form of milk, skim milk, or cream from a handler who purchases or receives milk from producers shall be classified (i) in the class in which such skim milk and butterfat was used if transferred to a handler who is not a producer-handler; (ii) as Class I, if transferred to a producer-handler; (iii) as Class I, if transferred to a person, other than a handler, who distributes milk or cream in fluid form for consumption as such; and (iv) in the class in which the market administrator determines such skim milk or butterfat was used, if transferred to a person, other than a handler, who does not distribute milk or cream in fluid form for consumption as such.

(2) No provision relative to transfers provided for in subparagraph (1) of this paragraph shall operate to deter the prior subtraction of skim milk or butterfat from other sources pursuant to paragraph (f) of this section. Any quantity reported for assignment to a particular class but not eligible therefor because of paragraph (f) of this section shall be assigned by the market administrator as Class I skim milk or Class I butterfat pending verification and appropriate allocation.

(e) *Computation of the skim milk and butterfat in each class.* For each delivery period, the market administrator in the case of each handler shall determine:

(1) The total pounds of skim milk received by adding together the total pounds of milk, skim milk, and cream received, and the pounds of butterfat and skim milk used to produce any milk products received, and subtracting therefrom the total pounds of butterfat determined pursuant to subparagraph (2) of this paragraph.

(2) The total pounds of utterfat received by adding into one sum the pounds of butterfat received from (i) producers; (ii) other handlers; and (iii) other sources.

(3) The total pounds of skim milk in Class I by (i) adding together the pounds of milk, skim milk, and cream disposed of in each of the several products of Class I, (ii) subtracting the result obtained in subparagraph (4) (i) of this paragraph; and (iii) adding together the result obtained in subdivision (ii) of this subparagraph and the result obtained in subparagraph (7) (iii) (b) of this paragraph.

(4) The total pounds of butterfat in Class I by (i) adding together the pounds of butterfat in each of the several prod-

ucts of Class I; and (ii) adding together the result obtained in subdivision (i) of this subparagraph and the result obtained in subparagraph (8) (ii) (*b*) of this paragraph.

(5) The total pounds of skim milk in Class II by (i) adding together the pounds of milk, skim milk, and cream which are used to produce each of the several products of Class II; and (ii) subtracting the result obtained in subparagraph (6) of this paragraph.

(6) The total pounds of butterfat in Class II by adding together the pounds of butterfat used in each of the several products of Class II.

(7) The total pounds of skim milk in Class III by (i) adding together the pounds of milk, skim milk, and cream which were used to produce each of the several products of Class III; (ii) subtracting the result obtained in subparagraph (8) (i) of this paragraph; (iii) subtracting from the result obtained in subparagraph (1) of this paragraph the results obtained in subparagraphs (3) (ii) and (5) (ii) of this paragraph and subdivision (ii) of this subparagraph, which resulting amount shall be classified as follows: (*a*) That portion not in excess of 2 percent of total receipts of skim milk from producers shall be considered as plant shrinkage and classified as Class III, and (*b*) that portion in excess of 2 percent of total receipts of skim milk from producers shall be classified as Class I: *Provided*, That any skim milk which has been accounted for as having been dumped by a handler shall be classified as Class III; and (iv) adding together the pounds of skim milk obtained in subdivision (ii) of this subparagraph and the pounds of skim milk allocated to Class III pursuant to subdivision (iii) of this subparagraph.

(8) The total pounds of butterfat in Class III by (i) adding together the pounds of butterfat used in each of the several products of Class III; (ii) subtracting from the result obtained in subparagraph (2) of this paragraph the results obtained in subparagraphs (4) (i) and (6) of this paragraph and subdivision (i) of this subparagraph, which resulting amount shall be classified as follows: (*a*) that portion not in excess of 2 percent of total receipts of butterfat from producers shall be considered as plant shrinkage and classified as Class III, and (*b*) that portion in excess of 2 percent of total receipts of butterfat from producers shall be classified as Class I; and (iii) adding together the results obtained in subdivisions (i) and (ii) (*a*) of this subparagraph.

(f) *Allocation of skim milk and butterfat classified.* (1) The pounds of skim milk remaining in each class, for each handler, after making the following computations shall be the pounds allocated to milk received from producers, and shall be known as the "net pooled skim milk" in such class for such handler:

(i) Subtract from the total pounds of skim milk in Class III the plant shrinkage of skim milk in Class III, computed pursuant to paragraph (e) (7) (iii) (*a*) of this section;

(ii) Subtract from the remaining pounds of skim milk in each class, in series beginning with the lowest-priced available class, the pounds of skim milk received from other sources;

(iii) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk received from other handlers and used in such class; and

(iv) Add to the remaining pounds of skim milk in Class III the amount subtracted pursuant to subdivision (i) of this subparagraph. If the remaining total pounds of skim milk in all classes exceed the total pounds of skim milk received from producers, subtract such excess from the remaining pounds of skim milk in each class in series beginning with the lowest-priced available class.

(2) Determine the pounds of butterfat to be allocated to milk received from producers in a manner similar to that prescribed in subparagraph (1) of this paragraph for skim milk (except that the reference paragraph (e) (8) (ii) (*a*) shall be substituted for the designated reference paragraph (e) (7) (iii) (*a*) set forth in subparagraph (1) (i) of this paragraph). The resulting pounds of butterfat in each class shall be known as the "net pooled butterfat" in such class.

(g) *Announcement of utilization of skim milk and butterfat.* The market administrator may from time to time as conditions in the market warrant:

(1) Obtain reports in the manner and on forms prescribed by him from handlers with respect to their receipts and utilization of skim milk and butterfat; and

(2) Publicly announce (i) the name of each handler whose receipts of skim milk or butterfat in milk received from producers are more than 105 percent of his utilization of skim milk or butterfat, respectively, in Class I milk, computed in the manner prescribed in subparagraphs (3) and (4) of paragraph (e) of this section, (ii) the name of each handler whose receipts of skim milk or butterfat in milk received from producers is less than 95 percent of his utilization of skim milk or butterfat, respectively, in Class I milk, computed in the manner prescribed in subparagraphs (3) and (4) of paragraph (e) of this section, and (iii) the percent that the total receipts of skim milk and butterfat in milk received from producers is of the utilization of skim milk and butterfat, respectively, by all handlers, in Class I (determined in accordance with subparagraphs (1), (2), and (3) of paragraph (b) of this section).

§ 942.5 *Minimum prices*—(a) *Basic formula price to be used in determining Class I and Class II prices.* The basic formula price per hundredweight of milk to be used in determining the Class I and Class II prices set forth in this section shall be the highest of the prices computed pursuant to subparagraphs (1), (2), and (3) of this paragraph.

(1) To the average of the basic (or field) prices per hundredweight reported to have been paid, or to be paid, for milk of 3.5 percent butterfat content received during the delivery period at the following plants or places for which prices have been reported to the market administrator or to the United States Department of Agriculture by the companies listed below:

Companies and Location

Borden Co.: Black Creek, Wis.
Borden Co.: Greenville, Wis.
Borden Co.: Mt. Pleasant, Mich.
Borden Co.: New London, Wis.
Borden Co.: Orfordville, Wis.
Carnation Co.: Berlin, Wis.
Carnation Co.: Jefferson, Wis.
Carnation Co.: Chilton, Wis.
Carnation Co.: Oconomowoc, Wis.
Carnation Co.: Richland, Wis.
Carnation Co.: Sparta, Mich.
Pet Milk Co.: Belleville, Wis.
Pet Milk Co.: Coopersville, Mich.
Pet Milk Co.: Hudson, Mich.
Pet Milk Co.: New Glarus, Wis.
Pet Milk Co.: Wayland, Mich.
White House Milk Co.: Manitowoc, Wis.
White House Milk Co.: West Bend, Wis.

Add an amount computed as follows: From the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, subtract 3 cents, add 20 percent thereof, and then multiply by 0.5.

(2) (i) Multiply by 6 the average daily wholesale price per pound of 92-score butter in the Chicago market as reported by the United States Department of Agriculture during the delivery period;

(ii) Add an amount equal to 2.4 times the average weekly prevailing price per pound of "Twins" during the delivery period on the Wisconsin Cheese Exchange at Plymouth, Wisconsin: *Provided*, That if the price of "Twins" is not quoted on the Wisconsin Cheese Exchange the weekly prevailing price of "Cheddars" on such Exchange shall be used; and

(iii) Divide by 7, add 30 percent thereof, and then multiply by 4.0.

(3) The price computed by adding together the plus amounts pursuant to subdivisions (i) and (ii) of this subparagraph:

(i) From the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the United States Department of Agriculture during the delivery period, subtract 3 cents, add 20 percent thereof, and then multiply by 4.0; and

(ii) From the average of the carlot prices per pound for nonfat dry milk solids (not including that specifically designated animal feed), spray and roller process, f. o. b. manufacturing plants in the Chicago area, as reported by the United States Department of Agriculture during the delivery period, deduct 4 cents, multiply by 8.5, and then multiply by 0.96.

(b) *Class I prices.* Each handler shall pay producers, in the manner set forth in § 942.8, for skim milk and butterfat in milk purchased or received from them during each delivery period and classified as net pooled Class I skim milk and net pooled Class I butterfat, not less than the following prices per hundredweight:

(1) For such skim milk and butterfat received at such handler's plant located in the 61–70 mile zone, the minimum prices shall be as follows:

(i) To the basic formula price add $0.85 for the delivery periods of April

through July and $1.25 for the delivery periods of August through March: *Provided*, That from the effective date hereof to and including the delivery period of March, 1948, the amount to be added to the basic formula price shall be $1.25.

(ii) The price of butterfat shall be the sum obtained in subdivision (i) of this subparagraph multiplied by 17.5.

(iii) The price of skim milk shall be computed by (*a*) multiplying the price of butterfat pursuant to subdivision (ii) of this subparagraph by 0.04; (*b*) subtracting such amount from the sum obtained in subdivision (i) of this subparagraph; (*c*) dividing such net amount by 0.96; and (*d*) rounding off to the nearest full cent.

(2) For skim milk and butterfat received at such handler's plant located in a freight zone other than the 61–70 mile zone, the prices shall be those effective pursuant to subparagraph (1) of this paragraph adjusted by the respective amount indicated in the following schedule for the freight zone in which such plant is located:

Freight zone (miles)	*Cents per hundredweight*
Not more than 20	+28.0
More than 20 but not more than 30	+8.0
More than 30 but not more than 40	+6.0
More than 40 but not more than 50	+4.0
More than 50 but not more than 60	+2.0
More than 60 but not more than 70	0.0
More than 70 but not more than 80	−2.0
More than 80 but not more than 90	−4.0
More than 90 but not more than 100	−6.0
More than 100 but not more than 110	−7.0
More than 110	−8.0

(3) The market administrator shall from time to time determine and publicly announce the freight zone location of each plant of each handler, according to the railroad mileage distance between such country plant and the railroad terminal in New Orleans, or according to the highway mileage distance between such plant and the City Hall in New Orleans, whichever is shorter.

(4) For the purpose of this paragraph, the skim milk and butterfat which was classified as net pooled Class I skim milk and net pooled Class I butterfat during each delivery period shall be considered to have been first that skim milk and butterfat which was received from producers at such handler's plant located in the 0–20 mile zone, then that skim milk and butterfat which was received from producers at such handler's plant in series beginning with plants located in the freight zone nearest to New Orleans.

(c) *Class II prices.* Each handler shall pay producers, in the manner set forth in § 942.8, for skim milk and butterfat in milk purchased or received from them during each delivery period and classified as net pooled Class II skim milk and net pooled Class II butterfat, not less than the following prices per hundredweight:

(1) To the basic formula price add $0.35 for the delivery periods of April through July and $0.55 for the delivery periods of August through March: *Provided*, That from the effective date hereof to and including the delivery period of March, 1948, the amount to be added to the basic formula price shall be $0.55.

(2) The price of butterfat shall be the sum obtained in subparagraph (1) of this paragraph, multiplied by 17.5.

(3) The price of skim milk shall be computed by (i) multiplying the price of butterfat pursuant to subparagraph (2) of this paragraph by 0.04; (ii) subtracting such amount from the sum obtained in subparagraph (1) of this paragraph; (iii) dividing such net amount by 0.96; and (iv) rounding off to the nearest full cent.

(d) *Class III prices.* Each handler shall pay producers, in the manner set forth in § 942.8, for skim milk and butterfat in milk purchased or received from them during each delivery period and classified as net pooled Class III skim milk and net pooled Class III butterfat, not less than the following prices per hundredweight:

(1) The price per hundredweight of skim milk shall be any plus amount resulting from the following computation: From the average of the carlot prices per pound for nonfat dry milk solids (not including that specifically designated animal feed), roller process, delivered at Chicago, as reported by the United States Department of Agriculture during the delivery period preceding that in which such skim milk was received, deduct 7 cents, and then multiply by 7.5.

(2) The price per hundredweight of butterfat shall be computed as follows: Multiply by 100 the average daily wholesale price per pound of 92-score butter in the Chicago market as reported by the United States Department of Agriculture during the delivery period preceding that in which such butterfat was received.

(e) *Emergency price provisions.* (1) Whenever the provisions hereof require the market administrator to use a specific price (or prices) for milk or any milk product for the purpose of determining class prices or for any other purpose, the market administrator shall add to the specified price the amount of any subsidy, or other similar payment, being made by any Federal agency in connection with the milk, or product, associated with the price specified: *Provided*, That if for any reason the price specified is not reported or published as indicated, the market administrator shall use the applicable maximum uniform price established by regulations of any Federal agency plus the amount of any such subsidy or other similar payment: *Provided further*, That if the specified price is not reported or published and there is no applicable maximum uniform price, or if the specified price is not reported or published and the Secretary determines that the market price is below the applicable maximum uniform price, the market administrator shall use a price determined by the Secretary to be equivalent to or comparable with the price specified.

(2) Whenever the Secretary finds and announces that the Class I and Class II prices computed for any delivery period pursuant to paragraphs (b) and (c) of this section are not in the public interest, the Class I and Class II prices for such delivery period shall be the same as the Class I and Class II prices for the previous delivery period.

§ 942.6 *Application of provisions*—(a) *Exceptions.* (1) Sections 942.5, 942.7, 942.8, and 942.9 shall not apply to any handler (i) whose sole source of supply is from other handlers (except producer-handlers) or (ii) who is a producer-handler pursuant to § 942.1 (m) as verified in the manner provided in subparagraph (2) of this paragraph.

(2) Producer-handlers shall furnish the market administrator for his verification evidence of their qualifications as such pursuant to § 942.1 (m).

(3) Milk received at the plant of a handler, the handling of which the Secretary determines to be subject to the pricing and payment provisions of any other Federal milk marketing agreement or order issued pursuant to the act for any fluid milk marketing area shall not be subject to the pricing and payment provisions in this part.

(b) *Payment for excess skim milk or butterfat.* If, after subtracting receipts from other sources, and from other handlers (including receipts in packaged form from producer-handlers), a handler has disposed of skim milk or butterfat in excess of the skim milk or butterfat which, on the basis of his reports, has been credited to his producers as having been purchased or received from them, the market administrator in computing the net pool obligation of such handler, pursuant to § 942.7 (a) shall add an amount equal to the value of such skim milk or butterfat in accordance with its value at the price for the class from which such skim milk or butterfat was subtracted pursuant to § 942.4 (f).

(c) *Skim milk and butterfat disposed of by a producer-handler.* A producer-handler shall be considered as a producer with respect to skim milk and butterfat disposed of in bulk as milk, skim milk, or cream to a handler (including another producer-handler), but as a handler with respect to skim milk and butterfat disposed of in packaged form to a handler (including another producer-handler).

§ 942.7 *Determination of uniform price to producers*—(a) *Net pool obligation of handlers.* The net pool obligation of each handler for skim milk and butterfat received from producers during each delivery period shall be a sum of money computed for such delivery period by the market administrator by: multiplying, respectively, the pounds of "net pooled skim milk" and "net pooled butterfat" in each class by the respective class prices, and adding, respectively, any amount pursuant to § 942.6 (b). The sum of the two amounts shall be such handler's total pool obligation.

(b) *Computation of the uniform price.* For each delivery period the market administrator shall compute the uniform price per hundredweight of skim milk, butterfat, and milk by:

(1) Combining the net pool obligations, computed pursuant to paragraph (a) of this section, for skim milk and butterfat, respectively, of all handlers who reported pursuant to § 942.3 (a) for such delivery period, except those in default of payments pursuant to § 942.8 (a) (3) for the preceding delivery period.

(2) Adding, respectively, the amounts computed by multiplying, respectively, the total hundredweight of skim milk and butterfat received from producers at plants located in each freight zone farther from New Orleans than the 61–70 mile zone by the appropriate zone differential set forth in the schedule pursuant to § 942.5 (b) (2);

(3) Subtracting, respectively, the amounts computed by multiplying, respectively, the total hundredweight of skim milk and butterfat received from producers at plants located in each freight zone nearer New Orleans than the 61–70 mile zone by the appropriate zone differential set forth in the schedule pursuant to § 942.5 (b) (2);

(4) Adding, respectively, an amount equal to one-half the unobligated balance in the producer-settlement fund;

(5) Dividing, respectively, the resulting sums by the hundredweight of "net pooled skim milk" and "net pooled butterfat"; and

(6) Subtracting, respectively, not less than 4 cents nor more than 5 cents. The results shall be known, respectively, as the uniform price per hundredweight for (i) skim milk and (ii) butterfat purchased or received from producers at plants located in the 61–70 mile zone. The uniform price for milk containing 4.0 percent butterfat received from producers at plants located in the 61–70 mile zone shall be the sum of the values of 96 pounds of skim milk and 4 pounds of butterfat at the respective uniform prices.

(c) *Butterfat differential.* For each delivery period the market administrator shall compute to the nearest one-tenth cent a butterfat differential as follows: subtract from the uniform price per hundredweight of butterfat the uniform price per hundredweight of skim milk and divide the result by 1,000.

(d) *Announcement of prices.* (1) On or before the 6th day of each delivery period, the market administrator shall notify all handlers and make public announcement of the class prices for skim milk and butterfat received from producers during the current delivery period.

(2) On or before the 10th day of each delivery period the market administrator shall notify all handlers and make public announcement of the computations pursuant to paragraph (b) of this section, of the butterfat differential computed pursuant to paragraph (c) of this section, and of the uniform price per hundredweight of skim milk, butterfat, and milk containing 4.0 percent butterfat received from producers during the preceding delivery period.

(e) *Computation of pool debits and pool credits.* On or before the 10th day after the end of each delivery period the market administrator shall:

(1) Compute the amount by which the sum of each handler's net pool obligations for skim milk and butterfat is greater or less than the amount computed for payment to producers by such handler pursuant to § 942.8 (a) (1) and (2), including the location adjustment to be made pursuant to § 942.8 (b). This amount shall be known as such handler's pool debit or pool credit, as the case may be, and shall be entered upon such handler's account.

(2) Notify each handler of the amount of such handler's (i) net pool obligation and (ii) pool debit or pool credit.

§ 942.8 *Payment for milk*—(a) *Payments to producers.* The amount of each handler's total pool obligation shall be distributed among producers in the following manner:

(1) On or before the last day of each delivery period, each handler shall make payment to each producer at not less than $3 per hundredweight for the milk received from each producer during the first 15 days of such delivery period.

(2) On or before the 15th day of each delivery period, each handler shall make payment to each producer for milk received from such producer during the preceding delivery period at not less than the uniform price for milk containing 4 percent butterfat announced pursuant to § 942.7 (d), adjusted as follows: if the average butterfat content of the milk received from any producer varies from 4 percent subtract for each one-tenth of 1 percent that the average butterfat content of such milk is less than 4 percent, or add for each one-tenth of 1 percent that the average butterfat content of such milk is more than 4 percent, an amount equal to the butterfat differential computed pursuant to § 942.7 (c): *Provided,* That if by such date such handler has not received full payment for such delivery period pursuant to subparagraph (4) of this paragraph, he shall not be deemed to be in violation of this subparagraph if he reduces uniformly for all producers his payment per hundredweight by a total amount not in excess of the reduction in payment from the market administrator; however, the handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments pursuant to this subparagraph next following that on which such balance of payment is received from the market administrator.

(3) On or before the 12th day of each delivery period, each handler shall pay to the market administrator for payment to producers through the producer-settlement fund the amount of such handler's pool debit for the previous delivery period.

(4) On or before the 15th day of each delivery period, the market administrator shall pay from the producer-settlement fund to each handler for payment to producers the amount of such handler's pool credit for the previous delivery period. If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this subparagraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available: *Provided,* That the market administrator may offset any such payment due to any handler against payments due from such handler.

(b) *Location differentials.* Each handler, in making the payments prescribed in paragraph (a) of this section, shall adjust the uniform price with respect to all skim milk and butterfat received from each producer at such handler's plant not located in the 61–70 mile zone by the amount per hundredweight specified in the table pursuant to § 942.5 (b) (2).

(c) *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to paragraphs (a) (3) and (d) of this section and out of which he shall make all payments to handlers pursuant to paragraphs (a) (4) and (d) of this section.

(d) *Adjustment of errors in payments.* Whenever verification by the market administrator of reports or payments of any handler discloses errors in payments to the producer-settlement fund made pursuant to paragraph (a) (3) of this section, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 5 days of such billing, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler pursuant to paragraph (a) (4) of this section, the market administrator shall, within 5 days, make such payment to such handler: *Provided,* That the market administrator may offset any such payment to any handler against payments due from such handler. Whenever verification by the market administrator of the payment by a handler to any producer discloses payment to such producer of an amount which is less than is required by this section, the handler shall make up such payment to the producer not later than the time of making payment to producers next following such disclosure.

(e) *Adjustment of overdue accounts.* Any balance due pursuant to this section to or from the market administrator on the 25th day of any month, for which remittance has not been received in, or paid from, his office by the close of business on that day, shall be increased one-half of 1 percent, effective the 26th day of each month.

§ 942.9 *Expense of administration.* As his pro rata share of the expense of administration hereof, each handler shall pay to the market administrator, on or before the 15th day after the end of each delivery period, 4 cents per hundredweight, or such lesser amount as the Secretary may from time to time prescribe, to be announced by the market administrator on or before the 10th day after the end of such delivery period, with respect to all skim milk and butterfat purchased or received by such handler, during such delivery period, from producers, including that received from such handler's own farm production.

§ 942.10 *Effective time, suspension, or termination*—(a) *Effective time.* The provisions in this part, or any amendment hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended, or terminated, pursuant to paragraph (b) of this section.

(b) *Suspension or termination.* Any or all of the provisions in this part, or

any amendment hereto, may be suspended or terminated as to any or all handlers after such reasonable notice as the Secretary shall give and shall, in any event, terminate whenever the provisions of the act cease to be in effect.

(c) *Continuing power and duty of the market administrator.* (1) If, upon the suspension or termination of any or all provisions in this part, are any obligations arising hereunder the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided*, That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(2) The market administrator, or such other person as the Secretary may designate, shall (i) continue in such capacity until removed, (ii) from time to time account for all receipts and disbursements and when so directed by the Secretary deliver all funds on hand, together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct, and (iii) if so directed by the Secretary execute assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

(d) *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions in this part, the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions in this part, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 942.11 *Liability of handlers.* The liability of the handlers hereunder is several and not joint, and no handler shall be liable for the default of any other handler.

§ 942.12 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions in this part.

§ 942.13 *Separability of provisions.* If any provision in this part, or its application to any person or circumstance, is held invalid, the application of such provision and of the remaining provisions in this part to other persons or circumstances shall not be affected thereby.

Issued at Washington, D. C., this 22d day of May 1947, to be effective on and after the 1st day of June 1947.

[SEAL] CLINTON P. ANDERSON,
Secretary of Agriculture.

Approved: May 27, 1947.

HARRY S. TRUMAN,
President.

[F. R. Doc. 47-5281; Filed, June 3, 1947; 8:51 a. m.]

[Peach Order 1]

PART 962—FRESH PEACHES GROWN IN GEORGIA

REGULATION BY GRADE

§ 962.301 *Peach Order 1*—(a) *Findings.* (1) Pursuant to the marketing agreement and order No. 62 (7 CFR, Cum. Supp., 962.1 et seq.), regulating the handling of fresh peaches grown in the State of Georgia, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendation of the Industry Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of peaches, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that compliance with the notice, public rule making procedure, and effective date requirements of the Administrative Procedure Act (Pub. Law 404, 79th Cong.; 60 Stat. 237) is impracticable and contrary to the public interest in that the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient for such compliance.

(b) *Order.* (1) During the period beginning at 12:01 a. m., e. s. t., June 5, 1947, and ending at 12:01 a. m., e. s. t., September 1, 1947, no handler shall, unless otherwise authorized pursuant to the provisions of this paragraph, ship any peaches which do not meet the requirements of U. S. No. 1 grade (as such grade is defined in the U. S. Standards for Peaches, issued by the United States Department of Agriculture, effective April 22, 1933, and as reissued on February 4, 1946), except that peaches with split pits or healed hail marks not causing serious damage may be shipped if such peaches meet all other requirements of the aforesaid U. S. No. 1 grade; and

(i) Not more than a total of fifteen (15) percent, by count, of the peaches contained in any bulk lot or in any lot of packages may consist of peaches with defects, other than split pits or healed hail marks as aforesaid, causing either damage or serious damage: *Provided*, That not more than two-thirds of this amount or ten (10) percent, by count, of the peaches in any such bulk lot, or lot of packages, may consist of peaches which are not free from worms or worm holes, and not more than one-fifteenth, or one (1) percent, by count, of the peaches in any such bulk lot, or lot of packages, may consist of peaches which are not free from decay; and

(ii) Not more than twenty-two (22) percent, by count, of the peaches contained in any individual package in any lot may consist of peaches with defects, other than split pits or healed hail marks as aforesaid, causing either damage or serious damage: *Provided*, That not more than fifteen (15) percent, by count, of the peaches contained in any such individual package may consist of peaches which are not free from worms or worm holes, and not more than two (2) percent, by count, of the peaches contained in any such individual package may consist of peaches which are not free from decay.

(2) The maturity regulations contained in § 962.107 of this part are hereby suspended during the period specified in subparagraph (1) of this paragraph.

(3) When used in this section, the terms "handler," "ship," and "peaches" shall have the same meaning as when used in the aforesaid marketing agreement and order; and the terms "serious damage," "split pits," "damage," "worms," "worm holes," and "decay" shall have the same meaning as when used in the aforesaid U. S. Standards.

(48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 7 CFR, Cum. Supp., 962.1 et seq.)

Done at Washington, D. C., this 29th day of May 1947.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 47-5321; Filed, June 3, 1947; 11:11 a. m.]

[Peach Order 2]

PART 962—FRESH PEACHES GROWN IN GEORGIA

REGULATION BY SIZE

§ 962.302 *Peach Order 2*—(a) *Findings.* (1) Pursuant to the marketing agreement and Order No. 62 (7 CFR, Cum. Supp., 962.1 et seq.), regulating the handling of fresh peaches grown in the State of Georgia, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendation of the Industry Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of peaches, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that compliance with the notice, public rule making procedure, and effective date requirements of the Administrative Procedure Act (Pub. Law 404, 79th Cong.; 60 Stat. 237) is impracticable and contrary to the public interest in that the time

intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient for such compliance.

(b) *Order.* (1) During the period beginning at 12:01 a. m., e. s. t., June 5, 1947, and ending at 12:01 a. m., e. s. t., July 1, 1947, no handler shall ship any peaches of any variety (except Early Hiley peaches and peaches of the Hiley type) of a size smaller than 1⅝ inches in diameter (as "diameter" is defined in the U. S. Standards for Peaches, issued by the United States Department of Agriculture, effective April 22, 1933, and as reissued on February 4, 1946), except that not more than ten (10) percent, by count, of the peaches contained in any bulk lot or in any lot of packages may be of a size smaller than 1⅝ inches in diameter, as aforesaid, but not more than fifteen (15) percent, by count, of the peaches contained in any individual package in any lot may be of a size smaller than 1⅝ inches in diameter, as aforesaid.

(2) When used in this section, the terms "handler," "ship," and "peaches" shall have the same meaning as when used in the aforesaid marketing agreement and order.

(48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 7 CFR, Cum. Supp., 962.1 et seq.)

Done at Washington, D. C., this 29th day of May 1947.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 47-5320; Filed, June 3, 1947; 11:11 a. m.]

TITLE 8—ALIENS AND NATIONALITY

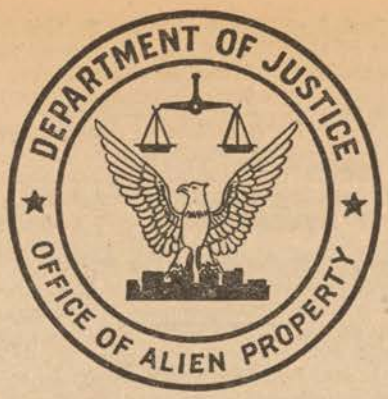
Chapter II—Office of Alien Property, Department of Justice

PART 500—ORGANIZATION OF OFFICE OF ALIEN PROPERTY AND DELEGATION OF FINAL AUTHORITY

SEAL OF THE OFFICE OF ALIEN PROPERTY

Under the authority of the Trading with the Enemy Act, as amended, and Executive orders issued thereunder, and pursuant to law, the following regulation is hereby issued:

§ 500.2 *Seal of the Office of Alien Property, Department of Justice.* (a) There is hereby established in and for the Office of Alien Property, Department of Justice, an official seal. The seal is described as follows, and illustrated below: A circle within which shall appear an eagle, with wings displayed, resting upon a building, the Scales of Justice suspended between the wing-tips. Exterior to this circle and within a circumscribed circle shall appear in the upper part, the words "Department of Justice" and in the lower part, the words "Office of Alien Property".



(b) The seal shall be in the custody of the Secretary. The Secretary and the Assistant Secretary for Records are hereby authorized to affix the seal in certifying, attesting, acknowledging, or otherwise authenticating documents, or copies of documents, issued by, or by authority of, the Office of Alien Property, Department of Justice, or the Director of said Office, when such authentication under seal is required or appropriate.

(c) Failure to affix the seal provided for in this section shall not affect the validity of any document not otherwise required to be under seal.

(40 Stat. 411, 55 Stat. 839, Pub. Law 322, 79th Cong., 60 Stat. 50, Pub. Law 671, 79th Cong., 60 Stat. 925, 50 U. S. C. App. and Sup. 1, 5 (b); E. O. 9193, July 6, 1942, 7 F. R. 5205, 3 CFR Cum. Supp.; E. O. 9788, Oct. 14, 1946, 11 F. R. 11981)

Executed at Washington, D. C., this 28th day of May 1947.

For the Attorney General.

[SEAL] DONALD C. COOK,
Director, Office of Alien Property.

[F. R. Doc. 47-5266; Filed, June 3, 1947; 8:48 a. m.]

PART 500—ORGANIZATION OF OFFICE OF ALIEN PROPERTY AND DELEGATIONS OF FINAL AUTHORITY

MISCELLANEOUS AMENDMENTS

1. Section 500.1 (a) is amended as set out below.

§ 500.1 *Central and field organization*—(a) *Direction.* The President, pursuant to the Trading with the Enemy Act, as amended, has conferred upon the Attorney General the functions formerly vested in the Alien Property Custodian and the Office of Alien Property Custodian. The Attorney General has placed these functions in an Office, created by him in the Department of Justice, which shall be known as "Office of Alien Property." The Office of Alien Property is under the direction of an Assistant Attorney General who is the Director, Office of Alien Property, and who is responsible to the Attorney General. The chain of delegation is set forth in § 500.20. All of the authority, rights, privileges, powers, duties, and functions of the Office of Alien Property may be exercised by the Director or by any agencies, instrumentalities, agents, delegates, assistants, or other personnel, appointed or designated by him. The Director will act for and on behalf of the Attorney General and will sign in the following form:

For the Attorney General.

_____,
(Name)
Assistant Attorney General, Director, Office of Alien Property.

Duly authorized persons appointed or designated by the Director will act for and on behalf of the Attorney General. Delegations of final authority are set forth in this part.

2. Section 500.20 (c) is amended as set out below.

§ 500.20 *Delegation to Office of Alien Property.* * * *

(c) Reference is made to Title 28, § 51.81, as amended,[1] providing for the establishment of the Office of Alien Property in the Department of Justice. David L. Bazelon, Assistant Attorney General, has been designated as Director.

(40 Stat. 411, 55 Stat. 839, Pub. Law 322, 79th Cong., 60 Stat. 50, Pub. Law 671, 79th Cong., 60 Stat. 925; 50 U. S. C. App. and Sup. 1, 5 (b); E. O. 9193, July 6, 1942, 7 F. R. 5205, 3 CFR Cum. Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981)

Executed at Washington, D. C., this 1st day of June 1947.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General, Director, Office of Alien Property.

Approved:

TOM C. CLARK,
Attorney General.

[F. R. Doc. 47-5315; Filed, June 3, 1947; 10:04 a. m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Bureau of Animal Industry, Department of Agriculture

PART 131—ANTI-HOG-CHOLERA SERUM AND HOG-CHOLERA VIRUS

DETERMINATION RELATIVE TO BUDGET OF EXPENSES AND FIXING RATES OF ASSESSMENT FOR THE CALENDAR YEAR 1947

On April 30, 1947, a notice of proposed rule making was published in the FEDERAL REGISTER (12 F. R. 2809) regarding the budget of expenses and the fixing of the rates of assessment for the calendar year 1947 under the marketing agreement and the marketing order (9 CFR 131.1 et seq.), regulating the handling of anti-hog-cholera serum and hog-cholera virus. This regulatory program is effective pusuant to Public Law No. 320, 74th Congress, approved August 24, 1935 (7 U. S. C. 851 et seq.). After consideration of all relevant matters presented, including the proposals set forth in the aforesaid notice, it is hereby found and determined that:

[1] See F. R. Doc. 47-5314, *infra*.

§ 131.101 *Budget of expenses and rates of assessment for the calendar year 1947*—(a) *Budget of expenses.* The expenses which will necessarily be incurred by the control agency, established pursuant to the provisions of the marketing agreement and of the marketing order (9 CFR 131.1 et seq.), for the maintenance and functioning of said control agency during the calendar year 1947, will amount to $31,525, from which shall be deducted the unexpended balance of $4,269.77 on hand with said control agency on January 1, 1947, from assessments collected during the calendar year 1946, leaving a balance of $27,255.23 to be collected during the calendar year 1947

(b) *Rates of assessment.* Of the amount of $27,255.23 to be collected during the calendar year 1947, the sum of $26,255.23 shall be assessed against handlers who are manufacturers, and $1,000 shall be assessed against handlers who, as distributors, market their products principally through veterinarians or other channels. The pro rata share of the expenses of the control agency to be paid for the calendar year 1947 by each handler who is a manufacturer shall be $17.45 per million cubic centimeters (determined by the nearest whole number) of hyperimmune blood collected by such handler during the calendar year 1946; and the pro rata share of such expenses to be paid for the calendar year 1947 by each handler who, as a distributor, markets his products principally through veterinarians or other channels shall be $2.25 per million cubic centimeters (determined by the nearest whole number) of serum sold by such handler during the calendar year 1946. Such assessments shall be paid by each respective handler in accordance with the applicable provisions of the marketing agreement and the marketing order.

(c) *Terms.* As used in this section, the terms "handler", "manufacturer", "distributor", and "serum" shall have the same meaning as is given to each such term in said marketing agreement and marketing order.

(d) *Findings relative to effective date.* Compliance with the effective date requirements of the Administrative Procedure Act (60 Stat. 237; Pub. Law 404, 79th Cong., 2d Sess.) is impracticable, unnecessary, and contrary to the public interest, in that (1) the fiscal year of the control agency established pursuant to the provisions of the marketing agreement and the marketing order corresponds to the calendar year, and the current calendar year 1947 is already well advanced; (2) the expenses of operating this regulatory program since January 1, 1947, have been paid with funds representing assessments collected in excess of expenses incurred during the calendar year 1946; (3) all such funds have already been expended; and (4) in order for the administrative assessments to be collected, it is essential that the specification of the assessment rates be issued immediately so as to enable the control agency to perform its respective duties and functions under the aforesaid marketing agreement and marketing order. (49 Stat. 781; 7 U. S. C. 851 et seq.)

Done at Washington, D. C., this 28th day of May 1947.

[SEAL] CLINTON P. ANDERSON,
Secretary of Agriculture.

[F. R. Doc. 47-5261; Filed, June 3, 1947; 8:48 a. m.]

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State

[Departmental Reg. OR 2]

PART 1—FUNCTIONS AND ORGANIZATION

MISCELLANEOUS AMENDMENTS

Under authority contained in R. S. 161 (5 U. S. C. 22), and pursuant to section 3 of the Administrative Procedure Act of 1946 (60 Stat. 237), the following sections of Part 1 of Title 22 of the Code of Federal Regulations (DR–OR 1; 12 F. R. 2345) are amended as indicated hereunder:

1. Paragraph (c) of § 1.500 is amended as follows:

§ 1.500 *Assistant Secretary; economic affairs.* * * *

(c) *Organization.* The office of the Assistant Secretary consists of the Assistant Secretary, Special Assistant for Economic and Social Council Affairs, Adviser on Relief and Rehabilitation Policy, Economic Policy Information Service, and Secretariat for the Executive Committee on Economic Foreign Policy, and has jurisdiction over the Office of International Trade Policy, Office of Financial and Development Policy, Office of Economic Security Policy, and Office of the Foreign Liquidation Commissioner.

2. Section 1.520 is amended by adding paragraphs (b) (9) and (d) (9) as follows:

§ 1.520 *Office of financial and development policy.* * * *

(b) *Major functions.* * * *

(9) Exercises the authorities conferred upon the Secretary of State by paragraph 2 (a) of Executive Order 9630, dated September 27, 1945, with respect to the administration of the Lend-Lease Act of March 11, 1941, as amended.

* * * * * *

(d) *Relationships with other agencies.* * * *

(9) With the United States Lend-Lease and Surplus Settlement Committee, of which the Director acts as Chairman.

3. Section 1.570 is redesignated § 1.610.

4. Section 1.600 is added to read as follows:

§ 1.600 *Assistant Secretary*—(a) *Purpose.* To advise and assist the Secretary in the development and implementation of foreign economic policy principally with respect to transport and communications affairs.

(b) *Major functions.* The Office of the Assistant Secretary performs the following functions:

(1) Initiates, formulates, and coordinates transport and communications aspects of foreign economic policy and action.

(2) Guides and directs economic planning and policy development in the Office of Transport and Communications.

(c) *Organization.* The Office of the Assistant Secretary is responsible primarily for the administration of the Office of Transport and Communications.

5. Paragraphs (b) (10) and (c) of § 1.1850 are amended as follows:

§ 1.1850 *Office of Departmental Administration.* * * *

(b) *Major functions.* * * *

(10) Provides special services for graphic presentation and other related activities, including exhibits, displays, and other media.

* * * * * *

(c) *Organization.* The Office consists of the Division of International Conferences, Central Translating Division, Division of Departmental Personnel, Division of Management Planning, Division of Central Services, Division of Communications and Records, Division of Cryptography, and New York Regional Administrative Office.

(Secs. 3, 12, Pub. Law 404, 79th Cong., 60 Stat. 238, 244)

For the Secretary of State.

Approved: May 15, 1947.

[SEAL] H. M. KURTH,
Director,
Office of Budget and Planning.

[F. R. Doc. 47-5272; Filed, June 3, 1947; 8:51 a. m.]

Chapter II—Commissions, Boards, Institutes, and Foundations

Subchapter D—Medal for Merit Board

PRESIDENT'S CERTIFICATE OF MERIT

CROSS REFERENCE: For amendment of Executive Order 9734, prescribing rules with respect to the President's Certificate of Merit, see Executive Order 9857B under Title 3, *supra.*

TITLE 24—HOUSING CREDIT

Chapter V—Federal Housing Administration

PART 500—GENERAL

FIELD ORGANIZATION; LOCATIONS

Section 500.22 *Field organization,* paragraph (b), subparagraph (5) *Locations* (11 F. R. 177A–886) is amended, effective June 1, 1947, by: Opposite the State of Arizona, in the column headed *City,* and directly below "Phoenix" adding "Tucson[1]" and, on the same horizontal line, in the column headed *Address,* adding "68 East Congress St."; and in the column headed *Jurisdiction,* adding "(See Phoenix)".

(Sec. 1, 48 Stat. 1246, secs. 3, 12, Pub. Law 404, 79th Cong., 60 Stat. 238, 244; 12 U. S. C. and Sup., 1702)

R. WINTON ELLIOTT,
Assistant Commissioner.

MAY 22, 1947.

[F. R. Doc. 47-5239; Filed, June 3, 1947; 8:47 a. m.]

PART 500—GENERAL

FIELD ORGANIZATION; LOCATIONS

Section 500.22 *Field organization*, paragraph (b), subparagraph (5) *Locations* (11 F. R. 177A-886) is amended, effective May 19, 1947, by: Opposite the State of Washington, in the column headed *City*, and directly below "Spokane" adding "Tacoma[1]" and, on the same horizontal line, in the column headed *Address*, adding "South 11th Street"; and in the column headed *Jurisdiction*, adding "(See Seattle)".

(Sec. 1, 48 Stat. 1246, secs. 3, 12, Pub. Law 404, 79th Cong., 60 Stat. 238, 244; 12 U. S. C. and Sup., 1702)

R. WINTON ELLIOTT,
Assistant Commissioner.

MAY 22, 1947.

[F. R. Doc. 47-5238; Filed, June 3, 1947; 8:47 a. m.]

Chapter VIII—Office of Housing Expediter

[Priorities Order 2, as Amended June 1, 1947]

PART 801—PRIORITIES ORDERS UNDER VETERANS' EMERGENCY HOUSING ACT OF 1946

DELEGATION OF AUTHORITY

§ 801.2 *Delegation of authority*—(a) *What this section provides.* This section delegates to specified agencies and officials authority to process maximum rent applications under § 806.1 (Housing Permit Regulation) and to approve or deny appeals and changes in applications made under § 806.1 (Housing Permit Regulation), § 803.5 (Housing Expediter Priorities Regulation 5), and Priorities Regulation 33 (formerly § 944.54).

(b) *Processing applications and appeals.* (1) The Federal Housing Administration (through the Federal Housing Commissioner or his designated representatives) is hereby authorized (i) to approve maximum rents for dwellings, in accordance with the Housing Permit Regulation, where that regulation provides that applications to have maximum rents approved may be filed with appropriate State and District Offices of the Federal Housing Administration, and (ii) to approve or deny, in accordance with the Housing Permit Regulation, Housing Expediter Priorities Regulation 5, and Priorities Regulation 33, appeals and changes in applications which these regulations authorize to be filed with the appropriate State and District Offices of the Federal Housing Administration.

(2) The Federal Public Housing Authority (through the Federal Public Housing Commissioner or his designated representatives) is hereby authorized (i) to approve maximum rents for dwellings, in accordance with the Housing Permit Regulation, where that regulation provides that applications to have maximum rents approved may be filed with appropriate Regional Offices of the Federal Public Housing Authority, and (ii) to approve or deny, in accordance with the Housing Permit Regulation, Housing Expediter Priorities Regulation 5, and Priorities Regulation 33, appeals and changes in applications which those regulations authorize to be filed with appropriate Regional Offices of the Federal Public Housing Authority.

(3) The Director of the Technical Office of the Office of the Administrator of the National Housing Agency is hereby authorized to approve or deny, in accordance with the Housing Permit Regulation, Housing Expediter Priorities Regulation 5, and Priorities Regulation 33, appeals and changes in applications which those regulations authorize to be filed with the Technical Office.

(4) The Federal Housing Administration and the Federal Public Housing Authority shall furnish the Housing Expediter with copies of approved applications and with such reports and other information as may be requested. All general instructions and operating procedures to be issued under the delegations in the paragraph shall be submitted to the Housing Expediter for prior approval.

(c) *Prior delegations continue in effect.* Any delegation heretofore made in connection with Housing Expediter Priorities Regulation 5 or Priorities Regulation 33 shall continue in full force and effect with respect to any civil action or criminal prosecution heretofore initiated pursuant to such prior delegation.

This section, as amended, shall become effective June 1, 1947.

(60 Stat. 207; 50 U. S. C. App. Sup. 1821)

Issued this 1st day of June 1947.

FRANK R. CREEDON,
Housing Expediter.

[F. R. Doc. 47-5333; Filed, June 2, 1947; 4:19 p. m.]

[Priorities Reg. 1, as Amended Mar. 4, 1947, Amdt. 1]

PART 803—PRIORITIES REGULATIONS UNDER VETERANS' EMERGENCY HOUSING ACT OF 1946

Section 803.10 *Priorities Regulation 1* (formerly §§ 944.1 through 944.20) is amended in the following respects:

1. Redesignate §§ 944.1 through 944.5 as paragraphs (a) through (f) of § 803.10.

2. After the new paragraph (f), insert new paragraphs (g) and (h) to read as follows:

(g) *Status of certain ratings.* All AAA, MM and CC ratings expired on March 31, 1947, except where such ratings were for construction items on Schedule A to PR-33 (exclusive of any such construction items indicated under "Steel" on List B to PR-3). Any AAA, MM or CC rated order which had been properly re-rated RR or RRR before April 1, 1947, shall be treated by the person with whom the order was placed as if it had carried the new rating at the time the original rated order was received by him.

(h) *Export certificates issued by the Office of Materials Distribution.* In carrying out its functions under the First Decontrol Act of 1947, the Office of Materials Distribution of the Department of Commerce may issue "export preference certificates," which permit authorized persons to place "certified orders" for export purposes. As provided in Allocations Regulation 2 of the Office of Materials Distribution, an order bearing an export preference certification is equal in precedence to an order bearing a RR (or CC) preference rating, unless otherwise directed in writing by the Office of Materials Distribution of the Department of Commerce.

3. Redesignate §§ 944.6 through 944.14a as paragraphs (i) through (t) of § 803.10.

4. After the new paragraph (t), insert a new paragraph (u) to read as follows:

(u) *Transfers of rights under rated or certified orders.* No person may transfer to another a right to place, or receive delivery on, a rated or certified order authorized under OHE regulations or orders.

5. Redesignate §§ 944.15 and 944.16 as paragraphs (v) and (w) of § 803.10.

6. Redesignate § 944.17 as paragraph (x) of § 803.10, and amend it to read as follows:

(x) *Reports.* Every person shall execute and file with the OHE such reports and questionnaires as it shall from time to time require, subject to the approval of the Bureau of the Budget, pursuant to the Federal Reports Act of 1942. These reports may be required in connection with OHE regulations or orders or may call for information not required under a specific regulation or order.

7. After the new paragraph (x), insert a new paragraph (y) to read as follows:

(y) *Reproduction of regulations and forms.* Any person may reproduce any OHE regulations or forms. Reproduction may be by any process. Forms reproduced for filing with the Office of the Housing Expediter or its representatives must be exactly like the officially published forms as to paper size, format, and arrangement of paragraphs or tables on each page. The paper color must be approximately the same as the official copy.

8. Redesignate §§ 944.18 through 944.20 as paragraphs (z) through (bb) of § 803.10.

(60 Stat. 207; 50 U. S. C. App. Supp. 1821)

Issued this 1st day of June 1947.

OFFICE OF THE HOUSING EXPEDITER,
By JAMES V. SARCONE,
Authorizing Officer.

[F. R. Doc. 47-5334; Filed, June 2, 1947; 4:20 p. m.]

[Priorities Reg. 3, as Amended March 4, 1947, Amdt. 1]

PART 803—PRIORITIES REGULATIONS UNDER VETERANS' EMERGENCY HOUSING ACT OF 1946

Section 803.11 Priorities Regulation 3 (formerly § 944.23) is amended in the following respects:

1. A new paragraph (d-2) is added following paragraph (d-1), to read as follows:

(d-2) *Extendability of HH Ratings.* HH ratings shall be extended only in accordance with the provisions of Schedule B to Priorities Regulation 33.

2. The introductory text of paragraph (e) starting with "Because of" through "as follows" is deleted.

3. A new paragraph (e) (4) is added following paragraph (e) (3) to read as follows:

(4) *Special rules: List B.* A preference rating shall not be used to obtain a product in Column I of List B if such use is prohibited by the special rules shown opposite the product in Column II.

4. The following items are added to List A:

Gypsum liner paper
Phenolic resin molding compounds

5. A new List B is added following List A, to read as follows:

LIST B

A preference rating shall not be used to obtain a product in Column I if such use is prohibited by the special rules shown opposite the product in Column II.

Products (I)	*Special Rules (II)*
Construction machinery of the following types: (i) Construction equipment, tractor mounted. (ii) Construction machinery, specialized. (iii) Construction material mixers, pavers, spreaders and related equipment. (iv) Construction material processing equipment. (v) Power cranes, derricks, draglines, dredges, shovels and related equipment. (vi) Scrapers, maintainers and graders. (vii) Contractors' elevating winches and hoists. (viii) Earth, rock and water well drilling and boring machinery. (ix) Tracklaying tractors.	No dealer, distributor or branch sales office of a producer shall extend an RR rating to a producer. "Producer" means any person to the extent he is engaged in the manufacture of construction machinery; it does not include a branch sales office of a producer. A producer shall treat as unrated any orders bearing RR ratings which he receives from dealers, distributors or branch sales office. Also, any producer who regularly sells a given type or types of construction machinery only through dealers, distributors or branch sales offices, either for all sales or for sales in a particular territory, may reject any RR rated orders for those types. A dealer, distributor or branch sales office must treat an RR rated order according to the rules of Priorities Regulation 1, irrespective of the fact that it may be his practice to have the producer ship an item direct to his customer. No distributor or dealer shall extend an RR rating for trucks. No person shall use an RR rating except to purchase new trucks from a distributor or dealer. Ordinarily, an RR rating for a truck will be assigned only to a producer of a critical building product who is eligible under Priorities Regulation 28.
Trucks (This means any new light, medium, or heavy motor truck, truck-tractor or the chassis therefor, or any chassis on which a bus body is to be mounted and which (1) was designed to be propelled or drawn by mechanical power; (2) was designed for use on or off-the-highway, for transportation of property or persons. This definition includes vehicles of the following types: trucks, truck chassis, truck tractors, off-the-highway motor vehicles, bus chassis, carry-all suburbans, sedan deliveries and cab pickups, but does not include station wagons, coupes fitted with pickup boxes, ambulances, hearses, taxicabs and integral type busses.)	
Pig Iron.	No person shall apply or extend a preference rating to obtain pig iron. This does not affect the validity of any certified order placed in accordance with Direction 25 to PR-28.
Steel, in the following forms and shapes: Bars, Cold-Finished. Bars, Hot-Rolled or Forged. Ingots, Billets, Blooms, Slabs, Die Blocks, Tube Rounds, Sheet Bars, Tin Bar, and Skelp. Pipe, including Threaded Couplings of the type normally supplied for Threaded Pipe. Plates, all Plates (including Rolled Armored Plate in the form and shape to which it is rolled by the Steel Mill and prior to any subsequent fabrication), and including Nickel Clad and Stainless Clad. Rail and Track Accessories. Sheet and Strip. Steel Castings (rough as cast). Steel Forgings (rough as forged). Structural Shapes and Piling. Tinplate, Terneplate, and Tin Mill Black Plate. Tubing. Wheels, Tires, and Axles. Wire Rods, Wire and Wire Products.	No person shall apply or extend an AAA, RRR, RR, MM or CC rating to obtain any of the forms and shapes of steel shown in Column I. This does not affect the validity of an outstanding HH rated order for any steel item on Schedule A to PR-33.

NOTE: The following regulation and directions are being revoked simultaneously with the issuance of this amendment:

PR-35.
Direction 15 to PR-3.
Direction 16 to PR-3.
Direction 6 to PR-28.

(60 Stat. 207, 50 U. S. C. App. Sup. 1821)

Issued this 1st day of June 1947.

OFFICE OF THE HOUSING EXPEDITER,
By JAMES V. SARCONE,
Authorizing Officer.

[F. R. Doc. 47-5337; Filed, June 2, 1947; 4:20 p. m.]

[PR 3, Revocation of Directions 15 and 16; PR 28, Revocation of Direction 6]

PART 803—PRIORITIES REGULATIONS UNDER VETERANS' EMERGENCY HOUSING ACT OF 1946

Directions 15 and 16 to PR-3 and Direction 6 to PR-28 are hereby revoked. Simplified provisions restricting the use of preference ratings to obtain construction machinery, pig iron, and trucks are now contained in PR-3, as amended June 1, 1947 (see especially List B to PR-3).

This revocation does not affect any liabilities incurred for violation of any of these directions or of any actions taken by the Civilian Production Administration, Office of Temporary Controls or the Office of the Housing Expediter under any of these directions.

(60 Stat. 207; 50 U. S. C. App. Sup. 1821)

Issued this 1st day of June 1947.

OFFICE OF THE HOUSING EXPEDITER,
By JAMES V. SARCONE,
Authorizing Officer.

[F. R. Doc. 47-5327; Filed, June 2, 1947; 4:18 p. m.]

[Priorities Reg. 5, Revocation]

PART 803—PRIORITIES REGULATIONS UNDER VETERANS' EMERGENCY HOUSING ACT OF 1946

Priorities Regulation 5 is hereby revoked. Authorization for the reproduction of regulations and forms is now contained in paragraph (y) of PR-1, as amended June 1, 1947.

(60 Stat. 207; 50 U. S. C. App. Supp. 1821)

Issued this 1st day of June 1947.

OFFICE OF THE HOUSING EXPEDITER,
By JAMES V. SARCONE,
Authorizing Officer.

[F. R. Doc. 47-5328; Filed, June 2, 1947; 4:18 p. m.]

[Priorities Reg. 7A, Revocation]

PART 803—PRIORITIES REGULATIONS UNDER VETERANS' EMERGENCY HOUSING ACT OF 1946

TRANSFERS OF QUOTAS PREFERENCE RATINGS: TRANSFER OF A BUSINESS AS A GOING CONCERN

Priorities Regulation 7A is hereby revoked. However, a simplified provision

prohibiting transfers of the right to place, or receive delivery on, rated or certified orders is now contained in paragraph (u) of PR–1, as amended June 1, 1947.

This revocation does not affect any liability incurred for violation of this regulation or any action taken by the Civilian Production Administration, Office of Temporary Controls, or the Office of the Housing Expediter under this regulation.

(60 Stat. 207; 50 U. S. C. App. Supp. 1821)

Issued this 1st day of June 1947.

OFFICE OF THE HOUSING EXPEDITER,
By JAMES V. SARCONE,
Authorizing Officer.

[F. R. Doc. 47–5330; Filed, June 2, 1947; 4:19 p. m.]

[Priorities Reg. 8, Revocation]

PART 803—PRIORITIES REGULATIONS UNDER VETERANS' EMERGENCY HOUSING ACT OF 1946

REPORTS

Priorities Regulation 8 is hereby revoked. However, a simplified reporting provision is now contained in paragraph (x) of PR–1, as amended June 1, 1947.

This revocation does not affect any liability incurred for violation of this regulation or any action taken by the Civilian Production Administration, Office of Temporary Controls, or the Office of the Housing Expediter under this regulation.

(60 Stat. 207; 50 U. S. C. App. Supp. 1821)

Issued this 1st day of June 1947.

OFFICE OF THE HOUSING EXPEDITER,
By JAMES V. SARCONE,
Authorizing Officer.

[F. R. Doc. 47–5329; Filed, June 2, 1947; 4:18 p. m.]

[Priorities Reg. 35, Revocation]

PART 803—PRIORITIES REGULATIONS UNDER VETERANS' EMERGENCY HOUSING ACT OF 1946

REVISED PRIORITIES RATING SYSTEM

Priorities Regulation 35 is hereby revoked. The status of AAA, MM and CC ratings and properly re-rated AAA, MM and CC orders, is now explained in PR–1, as amended June 1, 1947 (see especially paragraph (g) of PR–1).

This revocation does not affect any liability incurred for violation of this regulation or any action taken by the Civilian Production Administration, Office of Temporary Controls, or the Office of the Housing Expediter under this regulation.

(60 Stat. 207; 50 U. S. C. App. Supp. 1821)

Issued this 1st day of June 1947.

OFFICE OF THE HOUSING EXPEDITER,
By JAMES V. SARCONE,
Authorizing Officer.

[F. R. Doc. 47–5326; Filed, June 2, 1947; 4:18 p. m.]

PART 806—HOUSING PERMIT REGULATION UNDER VETERANS' EMERGENCY HOUSING ACT OF 1946

[Housing Permit Reg., as Amended, June 1, 1947]

AUTOMATIC AUTHORIZATION FOR HOUSING

Par.
(a) What this section provides.
(b) Effect on previous authorizations.
(c) Construction covered.
(d) Construction not covered.

AUTHORIZATIONS

(e) Automatic authorization for dwellings.
(f) Automatic authorization for subsidiary residential structures.
(g) May not add small job allowance.

CONSTRUCTION

(h) Construction limitations.
(i) Posting of placards or signs.

RENTS

(j) Applicability of rules on maximum rents.
(k) Maximum rents must be approved.
(l) Amounts which may be approved.
(m) Maximum rent not to be exceeded.
(n) Requests for increases.

PREFERENCES FOR VETERANS

(o) Veterans' preference for family dwellings.
(p) Veterans' preference for dormitories or other single-person housing facilities.

DEFINITIONS

(q) Definitions.

OTHER PROVISIONS

(r) Advertisements.
(s) Transfer of authorization prohibited.
(t) Appeals.
(u) Communications.
(v) Violations and enforcement.
(w) Records and reports.

§ 806.1 *Automatic authorization for housing*—(a) *What this section provides.* This section of the Code of Federal Regulations, § 806.1, is called the "Housing Permit Regulation." It is issued in accordance with the Veterans' Emergency Housing Program for 1947.

NOTE: When the term "this section" is used in this Housing Permit Regulation, it means this entire regulation and not just a part of it. The regulation is divided into paragraphs marked with small letters; these are divided into subparagraphs marked with numbers.

Anyone who wished to construct housing accommodations was formerly required to file an application under this section and get a construction permit before beginning construction. However, after this amendment of June 1, it is no longer necessary to file an application, and no specific permit is issued. If you are in one of the eligible classes automatically authorized under this section, and wish to construct housing accommodations of the kind permitted under this section, you may begin such construction immediately.

This section explains:

(i) Who is authorized to construct housing accommodations.

(ii) What kind of housing accommodations may be constructed.

(iii) The conditions imposed on a person constructing housing accommodations under this section (and on succeeding owners) as long as this section is in effect.

(iv) How a person who wishes to offer new housing accommodations for rent shall obtain approval of a maximum rent.

This section also applies to persons who wish to repair, make additions to, alter, install fixtures in, improve, or convert housing accommodations.

(b) *Effect on previous authorizations.* The effect of this section on authorizations already granted for housing construction is explained below:

(1) *Effect on approved priority applications.* This section does not affect applications or housing accommodations already approved under Priorities Regulation 33 or Housing Expediter Priorities Regulation 5. For this reason, this amendment of June 1 does not authorize you to do any additional construction in connection with housing accommodations already specifically authorized under PR–33 or HEPR–5. If you wish to request any changes in an application approved under one of those regulations, you must make the request in accordance with PR–33 or HEPR–5, whichever is applicable.

(2) *Effect of June 1 amendment on permits previously issued under HPR.* Any person to whom a construction permit has previously been issued under this section remains subject to the conditions and limitations imposed upon him by the section prior to this amendment of June 1, 1947.

However, if a particular provision of this section as amended June 1 is less restrictive than the corresponding provision before the amendment, the less restrictive provision applies. Thus, if you hold a construction permit issued before June 1, you are now authorized to do any construction, in connection with the dwellings covered by such permits, which would be authorized under the provisions of this section as amended June 1, 1947. This includes increasing the floor area to not more than 2,000 square feet, and installing additional bathroom fixtures (see paragraph (h) of this section). Construction permits previously issued under this section are considered to be amended to the extent necessary to permit such additional construction.

(c) *Construction covered.* This paragraph lists the kinds of construction, alteration or repair which are covered by this section (unless exempt as explained in paragraph (d) (2) of this section).

This section is the regulation which will tell you in what cases these kinds of work are authorized. They are automatically authorized under this section only if the builder and the construction qualify under paragraphs (e) through (h) of this section. If you have any questions about federal control of these kinds of construction under the Veterans' Emergency Housing Program, you should submit them to the Federal Housing Administration or Federal Public Housing Authority, not to the OHE District Construction Offices.

(1) *Construction of residential buildings.* The construction of any building in which 75% or more of the floor space involved is to be used for residential purposes (except where the purpose is pri-

marily for the accommodation of transients or overnight guests).

This includes dining halls, and other essential residential accommodations, used entirely as part of single-person accommodations (such as a dormitory) covered by an automatic authorization under this section. It also includes farm houses and other farm living accommodations, and bunkhouses for transitory farm labor.

However, this does not include hotels or tourist camps primarily for transients and overnight guests, nor does it include summer or winter camps. Housing of the War and Navy Departments is also not included.

(2) *Construction of subsidiary residential structures.* The construction of a subsidiary structure (such as a private garage, tool shed, greenhouse, fence, or the like) used for residential purposes in connection with any building of the kind covered by subparagraph (1) of this paragraph.

(3) *Additions, alterations and repairs.* Additions, alterations, or repairs to a building of the kind covered by subparagraph (1) or (2) of this paragraph, if 75% or more of the floor area involved in the additions, alterations, or repairs will be used for residential purposes.

(d) *Construction not covered.* The following rules relate to construction not covered by this section:

(1) *Non-housing construction.* Applications for specific authorization to begin construction (including alterations or repairs) not covered by this section shall be made in accordance with Veterans' Housing Program Order 1 and its directions and supplements (unless the construction is exempt under the terms of those regulations). Such applications shall be filed with the appropriate OHE District Construction Office.

(2) *Exempt construction.* Certain small construction jobs are exempt from the restrictions of Veterans' Housing Program Order 1, and therefore are exempt from this section. As provided in Supplement 3 to VHP–1, the small job allowance for any individual house designed for occupancy by five families or less is $1000 per structure. Therefore, even though you do not qualify under this section for an automatic authorization to do a larger construction job, you may begin any job on such an individual house if the cost of the job is not more than $1000.

AUTHORIZATIONS

(e) *Automatic authorization for dwellings.* Authorization to construct housing accommodations under this section is hereby granted to the persons listed in this paragraph (e). If you fall in one of these classes, you are not required to file an application, and may begin work of the specified kind immediately. However, the work must meet the construction requirements of paragraph (h) of this section.

(1) *Veteran.* Any veteran may build, complete, alter, or repair a family dwelling (or convert a dwelling or other structure into a family dwelling) for his occupancy as owner.

The total cost of any alteration and repair under this subparagraph (1) and any construction, alteration, and repair of subsidiary structures under paragraph (f) (1) of this section may not exceed $10,000. This limitation does not apply in the case of an additional dwelling resulting from conversion.

(2) *Builder for veterans.* Any person may build or complete one or more family dwellings (or convert dwellings or other structures into family dwellings) to which veterans will be given preference in selling or renting as provided in this section. Any builder, although not a veteran, may initially occupy a dwelling in two-family or multiple-family housing accommodations owned by him and constructed under this section.

(3) *Non-veteran building for own occupancy.* Any person may build a family dwelling (or convert a dwelling or other structure into a family dwelling) for his occupancy as owner.

NOTE: A non-veteran may repair an existing dwelling for his own occupancy only in accordance with subparagraph (4) or (5) of this paragraph, or in accordance with the small job allowance of Supplement 3 to VHP–1.

(4) *Disaster.* Any person may reconstruct (or build on another site, in event of total destruction) or repair a dwelling destroyed or damaged by fire, flood, tornado, or other similar disaster. Such a person is authorized only if the reconstruction or repair is necessary to the continuance of year-round occupancy by him or his tenant. Construction or repair under this subparagraph (4) must be started not later than 6 months after such destruction or damage.

(5) *Repairs or alterations to make a dwelling habitable or to provide space for additional persons.* Any person may make repairs or alterations to a dwelling necessary in order (i) to maintain it in a habitable condition or to return it to a habitable condition, or (ii) to make a summer home habitable for winter occupancy by a veteran, or (iii) to provide space for additional persons who are either veterans or members of the immediate family of the owner.

If space for additional persons is provided under subdivision (iii) of this subparagraph, the cost of the construction shall not exceed $1500 per person. In the event that such additional space is vacated, the builder or a subsequent owner or other person must not, while this section is in effect, rent it to any person other than a member of his immediate family or a veteran unless it has been publicly offered for rent to veterans for at least 30 days on the same or more favorable terms.

(6) *Housing for student veterans.* Any educational institution (or any person under its sponsorship) or any public organization may construct, repair, or alter a dormitory or other single-person housing facility (or repair or alter any family dwelling) for student veterans.

No single-person housing facilities or family dwellings may be constructed under this subparagraph (6) if the maximum rent to be charged is more than the amount charged for comparable accommodations in the area.

Before starting construction under this subparagraph (6), a person under the sponsorship of an educational institution must obtain a letter from that institution which (i) requests that the person sponsored construct a certain number of units for student occupancy, (ii) states that there is not a sufficient number of available rooms in the community for its student veterans, and (iii) represents that the institution will refer student veterans to the proposed accommodations as long as this section is in effect. He must keep this letter on file for at least 2 years after construction is begun.

Accommodations provided by persons under the sponsorship of an educational institution must be made available during the institution's school year only to student veterans and their dependents referred by the institution.

NOTE: For the purposes of this section, dwellings constructed, altered or repaired under former paragraph (c) of this section are deemed to be constructed, altered or repaired under the corresponding subparagraph of paragraph (e) of this section as amended June 1, 1947. However, this does not apply to former paragraph (c) (7).

(f) *Automatic authorization for subsidiary residential structures.* Authorization to construct subsidiary residential structures (such as private garages, fences, etc.) under this section is hereby granted to the persons listed in this paragraph (f).

(1) *Veteran.* Any veteran may build, complete, alter, or repair the following kinds of subsidiary residential structures in connection with his family dwelling: (i) Sanitary facilities, (ii) private garage, (iii) tool shed, and (iv) walls and fences. The family dwelling may be an existing dwelling or one being newly constructed.

The total cost of any construction, alteration and repair under this subparagraph (1) and any alteration and repair under paragraph (e) (1) of this section may not exceed $10,000. This limitation does not apply in the case of an additional dwelling resulting from conversion.

(2) *Non-veteran constructing in connection with new dwelling.* Any person authorized under paragraphs (e) (2) through (e) (6) of this section to construct a new dwelling may also construct the following kinds of subsidiary residential structures in connection with the new dwelling: (i) Sanitary facilities, (ii) private garage, (iii) tool shed, and (iv) walls and fences. This does not apply to conversions. In connection with the construction of the new dwelling he may not construct a greenhouse, swimming pool, or any other subsidiary residential structure except these four kinds.

A non-veteran is not given authorization by this section to construct, alter, or repair subsidiary structures of any kind in connection with his existing dwelling. However, if the cost of such work is not over $1000, it may come under the small job allowance referred to in paragraph (d) (2) of this section.

(3) *Housing for student veterans.* Any person authorized under paragraph (e) (6) of this section to construct a "single-person housing facility" may also construct separate dining halls and other essential residential accommodations to be used entirely as a part of the facility.

(g) *May not add small job allowance.* No person who is given an authorization under paragraph (e) or (f) of this section may, in connection with the job authorized, do any additional work under the small job allowance provided by Supplement 3 to Veterans' Housing Program Order 1.

For example, if a non-veteran undertakes repairs to his house which are needed to keep it habitable (under paragraph (e) (5) of this section), he is not allowed in connection with that job to do additional work under the $1000 small job allowance.

CONSTRUCTION

(h) *Construction limitations.* All work done under this section must comply with the following construction limitations:

(1) *Suitability for year-round occupancy.* No person shall build or convert any housing accommodations under this section except accommodations which are suitable and intended for year-round occupancy.

(2) *Maximum floor area.* No person shall build or convert any housing accommodations under this section in which the total calculated floor area of any dwelling unit exceeds 2000 square feet.

"Calculated floor area" comprises the square foot area of spaces above basement or foundation including utility rooms, vestibules, halls, closets, stair wells and interior chimneys and fireplaces. However, in the case of a house without a basement, a maximum of 150 square feet of the floor area of a utility room may be excluded from the calculated floor area. Calculated floor area does not include garages, unfinished attics, open porches, attached terraces, balconies and projecting fireplaces or chimneys outside the exterior walls. Measurements are taken to the outside surfaces of exterior walls. In a half story, measurements are taken to the outside surfaces of exterior walls or partitions enclosing the areas, but any area where the ceiling height is less than five feet is not included.

(3) *Plans and specifications for rental housing.* Any person who has submitted plans and outline specifications on the basis of which a maximum rent or maximum shelter rent was approved under this section must construct the housing accommodations in accordance with those plans and specifications, unless he submits new plans and specifications and has a new maximum rent and maximum shelter rent approved.

(i) *Posting of placards or signs.* When housing accommodations are constructed under paragraph (e) (2) or (e) (6) of this section, the builder must post either placards or signs as explained in this paragraph:

(1) *Placards.* Placards indicating that dwellings are being built for sale or rent to veterans under the Veterans' Emergency Housing Program are available at the State or District Offices of the Federal Housing Administration, and at the Regional Offices of the Federal Public Housing Authority. If the builder elects to post a placard or placards, the builder must obtain an appropriate placard (sale or rent, as the case may be) for each building constructed under paragraph (e) (2) or (e) (6) of this section.

He must post such a placard in a conspicuous location in front of each separate residential building within five days after the time construction is begun, and must continue to post the placard at least until completion of the building. In addition, unless all the accommodations in the building have been sold or rented to veterans, the builder must continue to post the placard for 60 days after completion of the building in the case of offer for sale, or 30 days afterwards in the case of offer for rent.

Rent placards contain a space for the maximum rent. In the case of dwellings offered for rent, the builder must legibly and permanently insert in this space the appropriate rent, not to exceed the maximum permitted under paragraphs (j) through (n) of this section. He must do this not later than the date on which construction of the dwellings is completed.

(2) *Signs.* If the builder elects to post a project sign in lieu of the placards, he must post a sign having the approximate dimensions of three by five feet (or greater) in a conspicuous location on the site of each project. In the case of a project comprised of only one dwelling, the sign need not meet these dimension requirements. Such a sign must contain the same information and be posted during the same period as is required under subparagraph (1) of this paragraph in the case of placards.

RENTS

(j) *Applicability of rules on maximum rents.* The restrictions on rents contained in paragraphs (j) through (n) of this section apply to all newly constructed dwellings built under this section for which a proposed maximum rent or maximum shelter rent must be stated under paragraph (k) of this section. They also apply to all newly constructed dwellings for which a proposed maximum rent or maximum shelter rent was required to be stated in an application upon which a construction permit was issued before June 1, 1947. These restrictions must be observed as long as this section is in effect.

(k) *Maximum rents must be approved.* If any person wishes to rent any newly constructed dwelling built under this section (except a dwelling built under paragraph (e) (4) of this section), he must have a maximum rent and maximum shelter rent approved for the dwelling as provided in this paragraph (k). (See paragraph (q) of this section for definitions of "dwelling," "maximum rent," and "maximum shelter rent.") In addition to dwellings built for rent, this applies to dwellings built for owner occupancy or for sale, if such dwellings are offered for rent without having been previously occupied.

(1) *What to file.* In order to get his rents approved, the person wishing to rent must submit plans and outline specifications, and a letter in triplicate stating his proposed maximum rent and maximum shelter rent for each new dwelling. In the case of famil dwellings, he must state the proposed amounts for each family unit. In the case of single-person housing accommodations, he must state the proposed amounts to be charged each person. Any tenant services, and any garage space, for which a charge is proposed must be described separately.

NOTE: Newly constructed dwellings and dwellings resulting from conversions located in defense rental areas must be registered with the appropriate Area Rent Office in accordance with the rent regulations issued under the Emergency Price Control Act of 1942, as amended. Maximum rents for dwellings resulting from conversions are not approved under this section, but will be established under those rent regulations.

(2) *Where to file.* This information must be filed with the appropriate State or District Office of the Federal Housing Administration, except that in the case of construction (whether under paragraph (e) (6) or other paragraph of this section) by educational institutions, persons under their sponsorship, or public organizations, the information must be filed with the appropriate Regional Office of the Federal Public Housing Authority. If the person who wishes to rent a new dwelling constructed under this section has already submitted the information required by this paragraph (k) in connection with an application for FHA mortgage insurance, he need not resubmit the information.

(3) *When to file.* Since a builder must know his maximum rent in order to comply with paragraph (i) of this section and to start the 30-day offering period running under paragraph (o) of this section, he should submit the required information at least 30 days before the estimated time of completion of the dwellings he is constructing.

(4) *Notification by FHA or FPHA.* Based on the information submitted, FHA or FPHA will notify the person in writing as to the maximum rent and maximum shelter rent which may be charged. In case the information was filed in connection with a mortgage insurance application, notification of the approved amounts will be sent to the builder by FHA at the same time that he is notified of the action taken on his application for mortgage insurance.

(5) *Rents previously approved.* Maximum rents and maximum shelter rents approved in connection with construction permits issued before June 1, 1947, shall be deemed to have been approved under this paragraph (k).

(l) *Amounts which may be approved.* No maximum shelter rent exceeding $80 per month may be approved for a dwelling under this section unless the average of all maximum shelter rents approved for dwellings in the project in which the dwelling is located is $80 per month or less.

As provided in paragraph (q) (3) of this section, the maximum rent for a dwelling may include, in addition to the maximum shelter rent, a charge for tenant services and a charge for garage space. However, the total charge for tenant services will not be approved if more than $3 per room per month. The charge for garage space will not be approved if more than $10 per month, and will be allowed only for dwellings in

multiple-family housing accommodations.

Maximum rents and maximum shelter rents may be approved under this section only if they are reasonably related to the housing accommodations, the tenant services, and the garage space involved. However, approval of a proposed maximum rent or maximum shelter rent should not be considered as a representation by the processing agency that the rent represents the value of the dwelling for other purposes.

(m) *Maximum rent not to be exceeded.* No person shall rent any dwelling for which a maximum rent or maximum shelter rent has been approved under this section for more than the approved maximum rent or maximum shelter rent, respectively.

(n) *Requests for increases.* The following are the rules governing requests for increases in maximum rents or maximum shelter rents approved under this section:

(1) *Because of increased costs.* Before a dwelling is initially rented, a person may request an increase in his maximum rent or maximum shelter rent (whether approved before or after this amendment of June 1, 1947) on the grounds of an increase in his costs. Such request should be made by sending a letter in triplicate to the agency that originally established the maximum rent or maximum shelter rent.

The increase will not be approved unless it can be shown (i) that the owner has incurred additional or increased costs in the construction over which he had no control, and which could not reasonably have been anticipated by him at the time of the initial request for approval, or (ii) that he will incur additional or increased costs in operation over which he has no control. He must also show that these additional or increased costs of construction or operation will make it unreasonable to require him to rent at the amount previously approved. No increase in rent will be granted unless reasonably related to the increase in construction costs or the increase in operating costs.

PREFERENCE FOR VETERANS

(o) *Veterans' preference for family dwellings.* If a family dwelling built or converted under this section is being offered for sale or rent, the owner (whether the builder or any subsequent owner) or any other person must not sell, rent or otherwise dispose of it to any person other than a veteran unless he has publicly offered it for sale or rent, as the case may be, to veterans for their own occupancy.

In the case of sale, this offer must be made to veterans for at least 60 days (or during construction and for 60 days afterwards in the case of a builder under paragraph (e) (2) of this section). In the case of rent, this offer must be made to veterans for at least 30 days at not more than the maximum rent approved under paragraph (k) of this section (or during construction and for 30 days afterwards at not more than such approved maximum rent, in the case of a builder under paragraph (e) (2) or paragraph (e) (6) of this section).

A person who has built or converted a family dwelling for rent or sale under this section must, for these periods of time, publicly offer it for sale or for rent to veterans for their own occupancy.

No person may sell or rent or otherwise dispose of a dwelling built or converted under this section to a person other than a veteran on terms or at a price more favorable than offered to veterans during the time a public offering must be made to veterans under this paragraph (o).

However, this paragraph (o) does not apply to:

(i) Dwellings built in disaster cases under paragraph (e) (4) of this section;

(ii) The initial occupancy of a dwelling built or converted under this section for the occupancy of the builder or the continued occupancy of his tenant;

(iii) The occupancy of a dwelling in two-family or multiple-family housing accommodations by the owner of the entire structure;

(iv) Sales in the course of judicial or statutory proceedings in connection with foreclosures (sales subsequent to such judicial or statutory sales are subject to the provisions of this paragraph (o));

(v) Sales of multiple-family housing accommodations for investment purposes rather than for occupancy by the purchaser; or

(vi) The occupancy of a dwelling by a building service employee which does not exceed 15 percent of the residential floor space of the structure or project.

(p) *Veterans preference for dormitories or other single-person housing facilities.* A person who has built or converted a dormitory or other single-person housing facility under this section must make the accommodations available exclusively for veterans and their dependents otherwise eligible to occupy the housing accommodations. However, if an educational institution builds a dormitory under this section, it may make 40% of the accommodations in the dormitory available to non-veterans if it makes available to veterans an equivalent number of similar or better accommodations in other dormitories at rents not higher than the rents to be charged for the new dormitory accommodations. It may also make not more than 15 percent of the residential floor space of any dormitory or dormitory project available to building service employees.

DEFINITIONS

(q) *Definitions.* As used in this section:

(1) The term "veteran" shall include:

(i) A person who has served in the active military or naval forces of the United States on or after September 16, 1940, and who has been discharged or released therefrom under conditions other than dishonorable;

(ii) The spouse of a veteran (as described in the preceding subparagraph) who died after being discharged or released from service, if the spouse is living with a child or children of the deceased veteran;

(iii) A person who is serving in the active military or naval forces of the United States requiring dwelling accommodations for his dependent family;

(iv) The spouse of a person who served in the active military or naval forces of the United States on or after September 16, 1940, and who died in service, if the spouse is living with a child or children of the deceased;

(v) A citizen of the United States who served in the armed forces of an allied nation during World War II (and who has been discharged or released therefrom under conditions other than dishonorable) requiring dwelling accommodation for his dependent family;

(vi) A person to whom the War Shipping Administration has issued a certificate of continuous service in the United States Merchant Marine who requires dwelling accommodations for his dependent family; and

(vii) A citizen of the United States who, as a civilian, was interned or held a prisoner of war by an enemy nation at any time during World War II, requiring dwelling accommodations for his dependent family.

(2) "Maximum rent" means the total consideration paid by the tenant for the dwelling accommodations as approved under paragraph (k) of this section. This includes charges paid by the tenant for tenant services and charges paid by the tenant for garage space. However, it does not include charges for the rental of furniture or charges covering the actual cost on a pro rata basis for gas and electricity for the tenant's domestic purposes.

(3) "Maximum shelter rent" means the maximum rent, less charges for tenant services and garage space.

(4) "Person" means an individual, corporation, partnership, association, public organization, or any other organized group of any of the foregoing, or legal successor or representative of any of the foregoing.

(5) "Public organization" means a governing body such as the United States Government, a State, county, city, town, village or other municipal government or an agency, instrumentality, or authority of such a governing body.

(6) "Educational institution" means a school, including a trade or vocational school, a college, a university or any similar institution of learning.

(7) "Dwelling" means separate living accommodations which are occupied, rented, or sold as a unit. This may be a detached house, semi-detached house, row house, an apartment whether in two-family or multiple-family housing accommodations, or a room or apartment in housing accommodations designed for occupancy by single persons. The term does not include any subsidiary residential structures, such as private garages, sheds, fences, and the like.

(8) "Project" means construction authorized on a single site, or contiguous sites except for streets, roads and alleyways.

(9) "Convert" means to provide an additional dwelling unit or units by repair, alteration, reconstruction, or otherwise.

(10) "This section" means this Housing Permit Regulation, § 806.1 of the Code of Federal Regulations.

OTHER PROVISIONS

(r) *Advertisements.* The builder and every subsequent owner and their agents and brokers, must, as long as this section remains in effect, include a statement in substantially the following form in any advertisement printed or published in which housing accommodations built under paragraph (e) (1), (2), (3), or (6) of this section are offered for sale or for rent:

Built under the Veterans' Emergency Housing Program. For sale (for rent at $------). It is being offered for sale (for rent) only to veterans during construction and for 60 (30 in case of rent) days after completion (or for 60 days in case of subsequent sale or 30 days in case of subsequent rent).

(s) *Transfer of authorization prohibited.* No person to whom a permit or authorization has been given under this section shall transfer the permit or authorization to any other person and any transfer attempted is void.

(t) *Appeals.* Any person who considers that compliance with any provision of this section would result in an exceptional and unreasonable hardship on him may appeal for relief. An appeal shall be in the form of a letter in duplicate and should be filed with the appropriate local office of the Federal Housing Administration or the Federal Public Housing Authority, as indicated in paragraph (k) of this section. The letter must state clearly the specific provision of the section appealed from and the grounds for claiming an exceptional and unreasonable hardship.

(u) *Communications.* All communications concerning this section should be addressed to the local office of the Federal Housing Administration or the Federal Public Housing Authority, as indicated in paragraph (k) of this section.

(v) *Violations and enforcement*—(1) *General.* The veterans' preference, maximum rent and other requirements of this section shall not be evaded either directly or indirectly. It shall be unlawful for any person to effect, either as principal, broker, or agent, a rental of any dwelling at a rent in excess of the maximum rent applicable to such rental under the provisions of this section, or to solicit or attempt, offer, or agree to make any such rental. It shall also be unlawful for any such person to condition a rental of any dwelling upon the purchase of, or agreement to purchase, any commodity, service or property interest, except tenant services and garage space included in the approved maximum rent, the rental of furniture or an investment interest in the housing accommodations.

The restrictions in paragraphs (o) and (p) of this section apply to the builder and subsequent owners of all housing accommodations constructed in violation of VHP–1. However, this does not relieve the builder of any penalty to which he may be subject by reason of the violation of VHP–1.

(2) *Penalties.* Any person who willfully violates any provision of this section and any person who knowingly makes any statement to any department or agency of the United States, false in any material respect, or who willfully conceals a material fact, in any description or statement required to be filed under this section, shall upon conviction thereof be subject to fine or imprisonment, or both. Any such person or any other person who violates any provision of this section, or any regulation or other issuance under the Veterans' Emergency Housing Act of 1946 relating to the construction or disposition of housing accommodations may be denied authorization under this section.

(w) *Records and reports.* All persons affected by this section shall file such information and reports as may be required by the Housing Expediter (or a person or agency authorized by him to make such requests), subject to the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942. The reporting and record-keeping requirements of this section have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(60 Stat. 207; 50 U. S. C. App. Sup. 1821)

Issued this 1st day of June 1947.

OFFICE OF THE HOUSING EXPEDITER,
By JAMES V. SARCONE,
Authorizing Officer.

[F. R. Doc. 47–5332; Filed, June 2, 1947; 4:19 p. m.]

[Suspension Order S–39]

PART 807—SUSPENSION ORDERS

ALFRED H. WILSON

Alfred H. Wilson, 1014 North Main Street, Marion, Ohio, on or about January 11, 1947, without authorization, began construction and thereafter carried on construction of a one-story commercial building to be used as a supermarket for groceries, meats, and vegetables, located on the west side of North Main Street (U. S. Route 23) immediately north of the corporation limits of Marion, Ohio, at an estimated cost of $7,000. The beginning and carrying on of construction as aforesaid constituted a violation of Veterans' Housing Program Order 1. This violation has diverted scarce materials to uses not authorized by the Office of the Housing Expediter. In view of the foregoing, it is hereby ordered that:

§ 807.39 *Suspension Order No. S–39.* (a) Neither Alfred H. Wilson, 1014 North Main Street, Marion, Ohio, his successors or assigns, nor any other person shall do any further construction on the one-story commercial building to be used as a supermarket for groceries, meats and vegetables, located on the west side of North Main Street (U. S. Route 23) immediately north of the corporation limits of Marion, Ohio, including the putting up, completing or altering said structure, unless specifically authorized in writing by the Office of the Housing Expediter.

(b) Alfred H. Wilson shall refer to this order in any application or appeal which he may file with the Office of the Housing Expediter for authorization to carry on construction.

(c) Nothing contained in this order shall be deemed to relieve Alfred H. Wilson, his successors and assigns, from any restriction, prohibition or provision contained in any other order or regulation of the Office of the Housing Expediter, except insofar as the same may be inconsistent with the provisions hereof.

Issued this 2d day of June 1947.

OFFICE OF THE HOUSING EXPEDITER,
By JAMES V. SARCONE,
Authorizing Officer.

[F. R. Doc. 47–5338; Filed, June 2, 1947; 4:21 p. m.]

[Suspension Order S–40]

PART 807—SUSPENSION ORDERS

JAMES H. PFLANZ

James H. Pflanz, residing at 1510 Sunset Avenue, Utica, New York, violated Veterans' Housing Program Order 1 by beginning on or about September 18, 1946; and carrying on thereafter, construction, repairs, additions and alterations to a commercial building without authorization and at a cost in excess of $1,000, located at 1700 Block Oriskany Street, Utica, New York. These violations have diverted critical materials to uses not authorized by the Office of the Housing Expediter. In view of the foregoing, it is hereby ordered that:

§ 807.40 *Suspension Order No. S–40.* (a) Neither James H. Pflanz, his successors or assigns, nor any other person shall do any further construction on the premises located at 1700 Block Oriskany Street West, Utica, New York, including the putting up, completing, or altering of any of the structures located thereon, unless hereafter specifically authorized in writing by the Office of the Housing Expediter.

(b) James H. Pflanz shall refer to this order in any application or appeal which he may file with the Office of the Housing Expediter for authorization to carry on construction.

(c) Nothing contained in this order shall be deemed to relieve James H. Pflanz, his successors or assigns, from any restriction, prohibition or provision contained in any other order or regulation of the Office of the Housing Expediter, except insofar as the same may be inconsistent with the provisions hereof.

Issued this 2d day of June 1947.

OFFICE OF THE HOUSING EXPEDITER,
By JAMES V. SARCONE,
Authorizing Officer.

[F. R. Doc. 47–5339; Filed, June 2, 1947; 4:21 p. m.]

[Suspension Order S–41]

PART 807—SUSPENSION ORDERS

WILLIS E. MILLER AND KRAUSE AND PAGURA

Willis E. Miller, d/b/a Wm. Miller Coal and Supply Co., 1736 McKinley Avenue, Columbus, Ohio, as owner, and Krause and Pagura, 538 East Town Street, Co-

lumbus, Ohio, as contractors, on or about December 14, 1946, without authorization, began construction and thereafter carried on and participated in the construction of a garage and warehouse building located at 1736 McKinley Avenue, Columbus, Ohio, at an estimated cost of $12,000. The beginning and carrying on and participating in such construction without authorization constituted a wilful violation of Veterans' Housing Program Order 1, and has diverted scarce materials to uses not authorized by the Office of the Housing Expediter. In view of the foregoing, is is hereby ordered that:

§ 807.41 *Suspension Order No. S–41.* (a) Neither Willis E. Miller, d/b/a Wm. Miller Coal and Supply Co., nor Krause and Pagura, their successors and assigns, nor any other person shall do any further construction on the garage and warehouse building located at 1736 McKinley Avenue, Columbus, Ohio, including putting up, completing or altering the structure unless authorized in writing by the Officer of the Housing Expediter.

(b) Willis E. Miller, d/b/a Wm. Miller Coal and Supply Co., and Krause and Pagura shall refer to this order in any application or appeal which they may file with the Office of the Housing Expediter for authorization to carry on such construction.

(c) Nothing contained in this order shall be deemed to relieve Willis E. Miller, d/b/a Wm. Miller Coal and Supply Co. and Krause and Pagura from any restriction, prohibition or provision contained in any other order or regulation of the Office of the Housing Expediter, except insofar as the same may be inconsistent with the provisions hereof.

Issued this 2d day of June 1947.

OFFICE OF THE HOUSING EXPEDITER,
By JAMES V. SARCONE,
Authorizing Officer.

[F. R. Doc. 47–5340; Filed, June 2, 1947; 4:22 p. m.]

[Suspension Order S–42]

PART 807—SUSPENSION ORDERS

WILLIAM E. SCHOTT AND CLARENCE A. SCHOTT

William E. Schott and Clarence A. Schott, as owners, are constructing a commercial structure to be used as an auto garage and service station located at 1128–1132 El Camino Real, San Carlos, California, the estimated cost of which is $12,200, or $11,200, in excess of the small job exemption as provided by paragraph (b) (2) of Supplement 3 of VHP–1, as amended May 28, 1946 (VHP–1, paragraph (c) (1) as issued March 28, 1946, and as subsequently amended). Construction commenced on or about November 15, 1946, without authorization, and continued in violation of Veterans' Housing Program Order 1 through May 1, 1947. This violation has diverted scarce materials to uses not authorized by the Office of the Housing Expediter. In view of the foregoing, it is hereby ordered that:

§ 807.42 *Suspension Order No. S–42.* (a) Neither William E. Schott nor Clarence A. Schott, their successors or assigns, nor any other person shall do any further construction on the project located at 1128–1132 El Camino Real, San Carlos, California, including putting up, completing, or altering the structure, unless hereafter authorized in writing by the Office of the Housing Expediter.

(b) William E. Schott and Clarence A. Schott shall refer to this order in any application or appeal which they may file with the Office of the Housing Expediter for authorization to carry on construction.

(c) Nothing contained in this order shall be deemed to relieve William E. Schott and Clarence A. Schott, their successors or assigns, from any restriction, prohibition or provision contained in any other order or regulation of the Office of the Housing Expediter, except insofar as the same may be inconsistent with the provisions hereof.

Issued this 2d day of June 1947.

OFFICE OF THE HOUSING EXPEDITER,
By JAMES V. SARCONE,
Authorizing Officer.

[F. R. Doc. 47–5341; Filed, June 2, 1947; 4:22 p. m.]

[Suspension Order S–44]

PART 807—SUSPENSION ORDERS

SAMUEL B. MEISER

Samuel B. Meiser, Connell, Washington, in the latter part of November or the early part of December, 1946, began the construction of a one-story pumic block building 28′ x 32′ in size, to be used as a service station at the corner of Main and "C" Streets in Connell, Washington, at an estimated cost of $5,000, without authorization. The beginning and carrying on of construction, as aforesaid, was in violation of Veterans' Housing Program Order 1 and has diverted scarce materials to uses not authorized by the Office of the Housing Expediter. In view of the foregoing, it is hereby ordered that:

§ 807.44 *Suspension Order No. S–44.* (a) Neither Samuel B. Meiser, his successors or assigns, nor any other person shall do any further construction upon the one-story pumic block building, 28′ x 32′ in size, to be used as a service station at the corner of Main and "C" Streets in Connell, Washington, including the putting up, completing or altering of the structure, unless hereafter specifically authorized in writing by the Office of the Housing Expediter.

(b) Samuel B. Meiser shall refer to this order in any application or appeal which he may file with the Office of the Housing Expediter relating to the above premises.

(c) Nothing contained in this order shall be deemed to relieve Samuel B. Meiser, his successors or assigns, from any restriction, prohibition or provision contained in any other order or regulation of the Office of the Housing Expediter, except insofar as the same may be inconsistent with the provisions hereof.

Issued this 2d day of June 1947.

OFFICE OF THE HOUSING EXPEDITER,
By JAMES V. SARCONE,
Authorizing Officer.

[F. R. Doc. 47–5342; Filed, June 2, 1947; 4:22 p. m.]

[Veterans' Housing Program Order 1, as amended, June 1, 1947]

PART 809—VETERANS' HOUSING PROGRAM ORDERS

GENERAL RESTRICTIONS ON CONSTRUCTION AND REPAIRS

The Veterans' Emergency Housing Program calls for the construction of a large number of housing accommodations to meet the needs of returning veterans. There is a shortage in the supply of materials and facilities suitable for the construction and/or completion of housing accommodations in rural and urban areas and for the construction and repair of essential farm buildings. It will be impossible to carry out the Veterans' Emergency Housing Program without diverting these critical materials from deferrable or less essential construction. The following order is deemed necessary and appropriate in the public interest and to effectuate the purposes of the Veterans' Emergency Housing Act of 1946.

INDEX—VHP–1

§ 809.1 *Veterans' Housing Program Order 1*—(a) *What this order does.* In order to carry out the Veterans' Emergency Housing Program, this order forbids the beginning of construction and repair work on buildings and certain other structures without specific authorization under paragraph (h) of the order or automatic authorization under the Housing Permit Regulation (12 F. R. 1082, 2027, 2120), with the exception of certain small jobs and other work covered by paragraphs (d), (e), and (f) of this order. The restrictions of the order apply whether or not the materials needed are on hand or are available without priorities assistance.

(b) *Structures and work covered by this order*—(1) *Kind of structures.* The restrictions of this order apply to certain kinds of work on structures.

As used in the order, "structure" means any of the following, whether of a temporary or permanent nature (See Interpretation 3 as to portable structures):

A building.
An arena, stadium or grandstand, including bleachers or similar seating arrangements.
A commercial amusement pier.
A boardwalk (not including wooden walks used in winter or bad weather).
A moving picture set.
A roller coaster or similar device of a kind ordinarily used in amusement parks.
A swimming pool.
A wall or fence built principally of wood.

The erection of stands or other structures which have been used before and are being erected only for a temporary purpose and are to be taken down after the temporary purpose is served is not covered by the order.

The term "structure" does not include any kind of equipment or furniture that is not attached to a building or other structure, whether or not it is inside a structure. Supplement 4 to VHP–1 contains examples of things which do not fall within the term "structure" as defined above.

(2) *Kinds of work.* The restrictions of this order apply to constructing, repairing, making additions or alterations (including alterations incidental to installing any kind of equipment), improving or converting structures, or installing or relocating fixtures or mechanical equipment in structures. These terms include any kind of work on a structure which involves the putting up or putting together of processed materials, products, fixtures or mechanical equipment, if the processed materials, products, fixtures or mechanical equipment are attached to a structure and used as a functional part of the structure, or are attached so firmly to the structure that removal would injure the material, product, fixture or mechanical equipment or the structure. However, the following kinds of work are not covered by the order:

Greasing, overhauling or repairing existing mechanical equipment or installing repair or replacement parts in existing mechanical equipment.
Sanding floors and sand blasting buildings.
Painting or papering an existing structure or applying waterproofing to an existing structure by painting or spraying where no work covered by the order is done in connection with the painting, papering or waterproofing.
Pointing bricks, sparkling plaster and caulking windows.
Installing loose fill, blanket, or batt insulation in existing buildings or installing insulation on existing equipment or piping.
Laying asphalt or other floor tile or linoleum or installing cork block insulation, in existing buildings (whether or not cemented to the building).

NOTE: The exemptions given above for work done in existing buildings does not apply to work done in connection with the original construction of the building or to work done in order to complete a building immediately after its original construction.

(3) *Fixtures and mechanical equipment.* In general the term "fixture" means any article attached to a building or structure and used as part of it and the term "mechanical equipment" means plumbing, heating, ventilating and lighting equipment which is attached to the building and used to operate it. Supplement 1 to VHP–1 contains lists of articles which are considered fixtures or mechanical equipment when attached to a structure in the manner described in that supplement and a list of other articles which are never considered fixtures or mechanical equipment.

(c) *Prohibition on construction and repairs.* (1) No person shall begin to construct, to repair, to make additions or alterations to, to improve, to convert from one purpose to another, or to install or to relocate fixtures or mechanical equipment in any structure, public or private, in the forty-eight States, the District of Columbia, Puerto Rico, the Virgin Islands or the Territory of Hawaii, except to the extent permitted under paragraphs (d), (e) and (f), or when and to the extent specifically authorized under paragraph (h) or automatically authorized under the Housing Permit Regulation. No person shall carry on or participate in any construction, repair work, addition, improvement, conversion, alteration, installation or relocation of fixtures or mechanical equipment prohibited by this order. The prohibitions of this paragraph apply to a person who does his own construction work, to a person who gets a contractor to do the work, to contractors, sub-contractors, architects and engineers working on a job which is being carried on in violation of this order or getting others to work on it or to supply materials for it.

(2) This order forbids the beginning of certain kinds of work. To "begin" work on a structure means to incorporate into a structure on the site materials which are to be an integral part of the structure in question. Demolition, excavation and similar site preparation do not constitute beginning construction. The order does not apply to work which was begun before the order became effective and which was being carried on on that date and which is carried on normally after that date. However, this rule only applies to the particular building or other structure begun at that time. It does not apply to any other building or structure which had not itself been begun by that date even though the two are closely related. Supplement 2 to this order contains further provisions concerning the effective date of the order and concerning the beginning of construction. It also contains examples of work which constitute beginning construction, and examples of other work which do not constitute beginning construction.

(d) *Small job allowances.* This order does not prohibit the performance of any separate construction, repair, alteration or installation job, the cost of which does not exceed the allowance given in Supplement 3 to VHP–1 for the particular kind of structure or job involved. Supplement 3 lists various kinds of structures and states what the small job allowance is for each kind of structure or job. Supplement 3 also contains provisions as to the method of calculating the cost of a job for the purpose of this exemption, and also provides when a job is a separate job.

(e) *Exemption for repair and maintenance work in industrial, utility and transportation structures.* The prohibitions of this order do not apply to maintenance and repair work in structures listed in paragraph (b) (3) of Supplement 3 to this order. For the purpose of the exemption given by this paragraph, "maintenance" means the minimum upkeep necessary to keep a structure in sound working condition and "repair" means the restoration of a structure to sound working condition when the structure has been rendered unsafe or unfit for service by wear and tear, damage, failure of parts, or the like. However, neither maintenance nor repair includes the improvement of any structure by replacing material which is still usable with material of a better kind, quality or design. Alterations to a building or other structure covered by paragraph (b) (3) of Supplement 3, including alterations incidental to installation of equipment, are not exempted by this paragraph, and may only be done when and to the extent permitted under Supplement 3 or when specifically authorized.

(f) *Other exemptions*—(1) *Disasters.* (i) The prohibitions of this order do not apply to the minimum work necessary to prevent more damage to a building or structure (or its contents) which has been damaged by flood, fire, tornado, or similar disaster. This does not include the restoration of the structure to its former condition.

(ii) The prohibitions of this order do not apply to the repair, rebuilding or reconstruction of any house (including a farmhouse) or any farm building which was destroyed or damaged by fire, flood, tornado or similar disaster, if the total cost of the repairs, rebuilding or reconstruction does not exceed $6,000 and if the reconstruction is started within sixty days of the occurrence of the disaster.

(2) *Military construction.* The prohibitions of this order do not apply to work by or for the account of the U. S. Army or Navy.

(3) *Veterans' Administration.* The prohibitions of this order do not apply to work on construction projects of the Veterans' Administration, including projects being built by the Corps of Engineers for the Veterans' Administration, or to the remodeling of a building or any part of a building which has been leased to the Veterans' Administration or to Public Buildings Administration for occupancy or use by the Veterans' Administration.

(g) *Prohibited receipts and deliveries.* No person shall accept an order for, sell, deliver or cause to be delivered materials which he knows or has reason to believe will be used in work prohibited by this order. Paragraph (d) (3) of Priorities Regulation 32 provides that no person may receive any material listed in Table I of that regulation for use in a construction project for which an authorization under VHP–1 is necessary unless an authorization for the project has already been obtained. Paragraph (c) of PR–32 contains a prohibition on deliveries made by a person who knows or has reason to believe that the receipt would be a violation of PR 32.

(h) *Specific authorization.* Persons who wish to begin housing construction work of the kind prohibited by this order should read the Housing Permit Regulation to determine whether they are eligible for automatic authorization under that regulation. Persons who wish to begin construction work of the kind prohibited by this order but not covered by the Housing Permit Regulation may apply for specific authorization as provided in Supplement 5 to this order. Supplement 5 states what forms should be used and where the applications should be filed. Applications for non-housing construction will be reviewed to determine whether they meet the standards set forth in Direction 3 to VHP–1.

The assignment of priorities assistance or the approval of housing accommodations under Priorities Regulation 33, whether before or after the time when this order became effective, or under Housing Expediter Priorities Regulation 5 or other applicable regulation of the Housing Expediter, constitutes an authorization under this order to do the work for which priorities assistance or approval was given.

(i) *Construction under authorizations.* The following rules govern construction authorized under this order:

(1) *Specific authorization.* When a person is specifically authorized, either by approval of Form CPA–4423 or Form OHE 14–171 (formerly CPA–4423) or Form CPA–4386 or otherwise, to do work restricted by this order, he must observe the restrictions imposed on him by the authorization, and in doing the authorized work, he must not do any work of the kinds covered by the order unless it is specifically covered by the authorization. He may not, in connection with a job which has been specifically authorized, do additional work under the exemption given by Supplement 3 to VHP–1.

When an application on Form CPA–4423 or Form OHE 14–171 (formerly CPA–4423) has been approved a placard will be sent to the applicant stating that the construction has been approved under this order. The applicant must place in the placard the project serial number and must set up the placard in front of the project site in a conspicuous location within five days after construction has been started and he must keep the placard there until completion of the work.

If for any reason a builder wishes to abandon a project and another builder wishes to continue it, the new builder should apply to the appropriate office, attaching to his application a letter from the former builder joining in the request for the issuance of the new authorization.

(2) *Automatic HPR authorization.* If a person is automatically authorized under the Housing Permit Regulation to do work restricted by this order, he must observe the restrictions imposed on him by the Housing Permit Regulation, and in doing the authorized work he must not do any other work of the kinds covered by this order which is not included in his automatic authorization. He may not, in connection with a job which has been automatically authorized under HPR, do additional work under the exemption given by Supplement 3 to VHP–1.

(3) *Authorizations not transferrable.* No person to whom an authorization under VHP–1 has been issued shall transfer the authorization.

(j) *Violations.* Any person who wilfully violates any provision of this order or who, in connection with this order, wilfully conceals a material fact or furnishes false information to any department or agency of the United States is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using material under priorities control, and may be deprived of priorities assistance.

(k) *Communications.* All communications concerning this order, except communications about applications for residential construction, should be addressed to the appropriate District Construction Office of the Office of the Housing Expediter or to the Office of the Housing Expediter, Washington 25, D. C., Ref.: VHP–1.

(l) *Reports.* All persons affected by this regulation shall file such reports as may be requested by the Office of the Housing Expediter, subject to the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(60 Stat. 207; 50 U. S. C. App. Sup. 1821)

Issued this 1st day of June 1947.

OFFICE OF THE HOUSING EXPEDITER,
By JAMES V. SARCONE,
Authorizing Officer.

INTERPRETATION 1: Revoked July 2, 1946

INTERPRETATION 2

PROHIBITED DELIVERIES

(a) Paragraph (g) of VHP–1 provides as follows: "(g) *Prohibited deliveries.* No person shall accept an order for, sell, deliver or cause to be delivered materials which he knows or has reason to believe will be used in work prohibited by this order." Paragraph (c) of PR–32 provides as follows: "(c) *Restrictions on delivery.* No person may deliver any Table 1 material if he knows or has reason to believe that acceptance of the delivery would be in violation of this section."

(b) The purpose of paragraph (g) of VHP–1 and paragraph (c) of PR–32 is to prohibit the sale or delivery of materials by a supplier if he knows or has reason to believe that the materials supplied will be used in violation of VHP–1 or are for use in a job for which authorization under VHP–1 should, but has not, been obtained. These provisions do not impose on a fabricator or supplier any duty to investigate whether a proposed construction job for which he is asked to supply materials will be begun or carried on in violation of VHP–1, or whether it is specifically authorized or is exempt under that order. Mere knowledge that the kind of work involved is a kind which ordinarily would require authorization under the order does not constitute reason to believe that the work will be begun or carried on in violation of the order, and, in the absence of information to the contrary, the supplier may rely on the builder to get an authorization if authorization is required.

(c) Neither paragraph (g) of VHP–1 nor paragraph (c) of PR–32 requires a supplier to get from his customer a certificate to the effect that the customer is not violating and will not violate VHP–1, or a certificate to the effect that the job for which the materials will be used is exempt under the order or has been authorized under the order. (As amended April 30, 1947)

INTERPRETATION 3

PORTABLE AND PREFABRICATED STRUCTURES

(a) The erection of a "portable" or prefabricated building or other structure is construction and is restricted by Veterans' Housing Program Order 1, if the structure is placed on a foundation constructed on the site, or if the structure is connected to the ground by plumbing, wiring or other utility connection, or if the structure is placed on the ground on a spot where it is intended to remain for an undetermined time.

(b) Erection of a "portable" or prefabricated structure is not construction and is not covered by VHP–1 only if the structure is placed on a temporary site for the purpose of moving it from time to time, without any foundation or other connection with the ground. For example, the erection of a shelter to be moved around frequently for use on different parts of a farm from time to time is not construction, while the erection of a prefabricated or "portable" structure for use as a garage on a house lot is construction, and is restricted by VHP–1.

(c) If the erection of a "portable" or prefabricated building constitutes construction, as indicated above, the cost of the job must be computed in accordance with Supplement 3 to VHP–1. If the cost of the job exceeds the applicable allowance under that supplement, authorization for the job must be obtained.

INTERPRETATION 4

SMALL JOB ALLOWANCES FOR INDUSTRIAL UTILITY AND TRANSPORTATION STRUCTURES

(a) Paragraph (b) (3) of Supplement 3 to VHP–1 provides for small job allowances for certain industrial, utility and transportation structures. The small job allowance for one of these structures (with certain exceptions specified in the paragraph) depends upon the floor area which the particular structure has or will have. If the floor area of the particular building being built or altered is or will be 10,000 square feet or more, the allowance for alterations or additions or new construction is $15,000. On the other hand, if the floor area of the structure involved is and will be less than 10,000 square feet, the allowance is $2,500. If the cost of the proposed job, figured in accordance with paragraph (g) of Supplement 3, exceeds the small job allowance, authorization under VHP–1 must be obtained before starting the job.

(b) The following examples will explain the effect of this provision:

(1) A person proposes to construct a building to be used primarily as a factory. The floor area will be 1,500 square feet. The allowance for the job is $2,500.

(2) Any person owns a building which is used primarily as a factory and which has a floor area of 6,000 square feet. He proposes to make an alteration in the building. The allowance for this job is $2,500.

(3) A person owns a building which is used primarily for a factory and which has a floor area of 6,000 square feet. He proposes to build a wing on the building which will add 1,000 square feet, making a total of 7,000 square feet. The allowance for this job is $2,500.

(4) A person owns a building which is used primarily for a factory and which has a floor area of 8,000 square feet. He proposes to build a wing on the building which will add 2,000 square feet, making a total of 10,000 square feet. The allowance for this job is $15,000.

(5) A person owns a building which is used primarily for a factory and which has a floor area of 10,000 square feet or more. He proposes to make an alteration to the building. The allowance for this job is $15,000.

(6) A person proposes to build a building which will be used primarily for a factory and which will have a floor area of 10,000 square feet or more. The allowance for this job is $15,000.

(c) The floor area of the particular building which is to be built, in which the alteration is to be performed or to which the addition is to be built (including the floor area of any proposed addition) is the only floor area to be considered. The floor area of any other buildings may not be counted toward the 10,000 square feet, even though they are situated near to the building involved and are used for the same purpose.

(d) A building is considered a separate building from the one in which the construction is being done, if there are outside walls or party walls between the two buildings, even though the two are to be used for the same purpose, even though the two have common services, even though the two are connected by common roofs, continuous foundations, connecting passageways, covered passages, bridges, arcades or the like and even though the two have doorways or other openings providing for communication between the two buildings.

(e) The small job allowances provided in paragraph (b) (3) do not apply to structures of the kinds listed in paragraph (b) (4), and do not apply under the circumstances covered by paragraph (c) of Supplement 3. (As amended June 1, 1947.)

INTERPRETATION 5

WORK COVERED BY AUTHORIZATIONS: TEMPORARY CONSTRUCTION BUILDINGS

(a) When an authorization is issued for the construction of a building or other structure described in the approved application, the builder may construct temporary structures on the site of the approved project which are necessary for its construction. For example, an authorization for a building includes authorization to put up temporary fences around the excavation, and temporary buildings for the purpose of storing materials for use as work rooms for architects or engineers on the job or to provide toilet facilities or dressing rooms for people working on the job or shacks for watchmen. These temporary buildings are covered by the authorization, whether or not they are placed upon temporary foundations or have lighting or plumbing connections.

(b) An authorization to construct a building or other structure does not give permission to put up buildings or other structures off the site of the approved project nor does it include permission to put up permanent buildings or other structures which will remain after the completion of the construction job, except those specifically covered by the authorization. This is true even though the structures are of a kind which were exempt from the order at the time the original authorization was issued and were, therefore, not included in the original application.

(c) Where temporary construction buildings are put up in the course of building something which itself is not covered by the order, such as a bridge or dam, the usual rules set forth in VHP–1, as explained in Interpretation 3, apply. Authorization must be obtained if the proposed structure is covered by VHP–1 even though the structure is temporary and is to be removed when the job is finished.

[F. R. Doc. 47–5336; Filed, June 2, 1947; 4:20 p. m.]

[Veterans' Housing Program Order 1, Direction 5]

PART 809—VETERANS' HOUSING PROGRAM ORDERS

RECONSTRUCTION IN WOODWARD, OKLAHOMA

The following direction is issued pursuant to Veterans' Housing Program Order 1:

Until further notice, it is not necessary to get authorization under Veterans' Housing Program Order 1 for restoration jobs on buildings or other structures covered by VHP–1 in the Woodward, Oklahoma area, if the restoration is made necessary by damage caused by the tornado which occurred on April 9, 1947. This direction is limited to the restoration of structures to substantially the same size and condition as on April 8, 1947.

(60 Stat. 207; 50 U. S. C. App. Sup. 1821)

Issued this 1st day of June 1947.

OFFICE OF THE HOUSING EXPEDITER,
By JAMES V. SARCONE,
Authorizing Officer.

[F. R. Doc. 47–5325; Filed, June 2, 1947; 4:18 p. m.]

PART 809—VETERANS' HOUSING PROGRAM ORDERS

[Veterans' Housing Program Order 1, Supp. 3 as Amended June 1, 1947]

SMALL JOB ALLOWANCES

§ 809.4 (a) *What this supplement does.* Paragraph (d) of Veterans' Housing Program Order 1 provides an exemption from the order for one or more jobs on a structure, if the cost of each job does not exceed the allowance given for the kind of structure or the kind of job involved. This supplement sets forth the small job allowances generally applicable to individual structures of various classes and lists certain specific structures falling within each class. The supplement also lists exemptions applicable to a particular kind of job. In addition, this supplement explains the rules for computing the cost of a job for the purpose of determining whether it comes within the exemption given under this supplement.

(b) *Classification of structures.* The small job allowances given under this supplement are based in general upon the kind or size of structure in which the job is to be done. They are not based upon the use to which the part of a structure being altered is to be put, except as provided in paragraph (c) of this supplement. If the job involved consists of changing a structure from one class to another class, the small job allowance applicable to the conversion is the allowance for the structure after the conversion, except where the conversion is from residential purposes to nonresidential purposes, in which case the job is covered by paragraph (c) of this supplement. The allowance provided for in paragraph (c) is applicable to a job covered by that paragraph, even though done in a structure which, as a whole, would have a larger allowance under this paragraph. It is not necessary to have either specific authorization under VHP–1, or automatic authorization under the Housing Permit Regulation, to do any separate construction, repair, alteration or installation job the cost of which does not exceed the allowance given below (or, for certain jobs, the allowance given in paragraph (c) of this supplement) for the individual structure involved.

(1) The small job allowance under paragraph (b) of this supplement for a structure of the kind listed below is $1,000 per job.

Any individual house designed for occupancy by 5 families or less even though it is on the property of a commercial, utility, institutional or industrial concern and used for the purpose of housing employees of the commercial, utility, institutional or industrial concern.

A rectory or parsonage even though near a church and owned by a church.

A house on a campus owned by a college and occupied by a college official.

A boarding or rooming house designed for occupancy by 10 boarders or roomers or less.

A farmhouse or other housing accommodations on a farm (except a farm bunkhouse).

Row houses separated by party walls are considered separate houses.
All private structures situated near and used in connection with one to five family houses, such as garages, fences, tool sheds, greenhouses and the like even though these may be used in part or primarily for nonresidential purposes (except on farms, see paragraph (b) (2) of this supplement).

(2) The small job allowance under paragraph (b) of this supplement for a structure of the kinds listed below is $2,500 per job:

NOTE: Item "publicly owned pier not used for steamship or railway purposes" deleted Apr. 30, 1947.

A boarding or rooming house designed for occupancy by more than 10 boarders or roomers.
A dormitory or fraternity.
A building used for a social club.
A service station or a commercial or service garage.
A funeral parlor or funeral home.
A radio broadcasting station.
A building in a drive-in theater, such as an enclosed projection room or a screen forming an enclosure for storage purposes, for rest rooms or for other purposes.
A bunkhouse for employees of a commercial, industrial or other concern.
A parish house.
A college or university laboratory, field house or class room building.
A building in a retail or wholesale lumber yard.
A repair shop, except a plant primarily engaged in reconditioning or rebuilding equipment or articles for resale.
A drycleaning or laundering establishment, whether wholesale or retail.
An office building, whether or not owned and occupied exclusively by a transportation, utility or industrial concern (except where situated on the immediate premises of a plant having a $15,000 allowance; see paragraph (e) below).
A commercial amusement pier.
A store.
A hotel.
An arena.
An apartment house or other residential building designed for occupancy by more than 5 families.
A bank.
A restaurant.
A nightclub.
A theater.
A warehouse, including a warehouse in which products such as liquor, cheese or tobacco are kept to age, whether or not changes occur in the product during the aging process.
A frozen food locker plant.
A stadium.
A grandstand used for commercial or institutional purposes.
A church.
A hospital.
A school.
A college.
A publicly owned building used for public purposes.
A building used exclusively for charitable purposes.
A tailor's or dressmaker's establishment making, repairing or altering articles for individual customers.
Any other structure used for commercial or service purposes and not specifically covered by any other classification.

(3) The small job allowance under paragraph (b) of this supplement for a structure of any of the kinds listed below is $15,000 per job if the floor area of the structure is or will be 10,000 square feet or more. If the floor area of the structure is or will be less than 10,000 square feet, the small job allowance is $2,500 per job unless the list below indicates, by the use of an asterisk in front of items where the $15,000 small job allowance applies regardless of floor area, that the $15,000 allowance applies regardless of floor area.

NOTE: The allowance given in this paragraph does not apply to structures of the kinds listed specifically in paragraph (b) (4) below, which always have the small job allowance of $500 per job given in that paragraph, or to residential buildings, which always receive the applicable allowance given in paragraphs (b) (1) and (b) (2) above.

NOTE: The small job allowances provided by this paragraph apply only to buildings primarily used for the purposes listed below. See paragraph (d) below

*A building at a logging or lumber camp or at a mine, including a mine tipple.
*An industrial research laboratory or pilot plant.
*A building or other structure used directly for the operation of a railroad, street railway, commercial airline, busline or common or contract carrier by truck, such as a roundhouse, a building housing signal or interlocking installations, locomotive water facilities, freight yard offices, railroad workmen's washrooms and lockers, a garage or workshop for a bus company, a freight terminal for a common or contract carrier by truck, railway or steamship line or a hangar for a commercial airline.
*A building or other structure used for producing, refining or distributing oil, gas (including liquefied or bottled gas) or petroleum, except service stations and commercial or industrial garages.
*A building providing directly for electric, gas, sewerage, central steam heating, telephone or telegraph communication services, including a telephone exchange and a radio telephone or adio telegraph station used as an international point to point radio communication carrier.
*An industrial or utility powerhouse.
*An industrial or utility pumping station for pumping water, gas or sewage.
*A pumphouse or terminal facility on an oil or gas pipeline.
*A grain, coal or cement elevator.
*A single moving picture set.
*A cotton compress warehouse.
A building or other structure which is to be used for manufacturing, processing or assembling any goods or materials.
A printing or bookbinding plant or a newspaper publishing establishment.
A plant engaged in the wholesale printing, developing and enlarging of photographs.
A plant engaged in mixing and bottling syrups or soft drinks.
An off-farm slaughterhouse, bakery, butcher shop or other off-farm establishment where edible food products for humans or animals are prepared for the market by pasteurizing, bottling, mixing, coloring, preserving, washing, salting, packaging or freezing (not including the frozen food locker plant).
A plant primarily engaged in reconditioning or rebuilding articles or equipment for resale.
A scrap dealer's plant if it is primarily engaged in such processing operations as briquetting, pressing or baling light iron, cutting up heavy melting steel, breaking up heavy cast iron, detinning cans or smelting non-ferrous metals for the purpose of making the scrap available for further use.
A building used primarily for a station, waiting room for a railroad, a commercial airline or a busline, whether situated at an airfield, railroad or elsewhere.

(4) The small job allowance under paragraph (b) of this supplement for a structure of the kinds listed below is $500 per job.

A private bathhouse which is not situated near and used in connection with another structure.
A tourist cabin whether a single cabin or one of a group of separate cabins. A cabin is considered a separate cabin if it has independent outside walls even though the space between it and the next cabin is sheltered by a roof and is used as a garage. A management building used for operating the cabins is considered a commercial building under paragraph (b) (2) of this supplement.
A swimming pool.
A boardwalk.
A roller coaster or similar device of a kind ordinarily used in amusement parks.
Any other structure covered by the order and not coming within any other classification.

(5) The small job allowance under paragraph (b) of this supplement for a non-residential structure on a farm is $5,000 per job, if the farm on which the structure is or is to be situated has an area of 5 acres or more. However, the small job allowance for a non-residential structure on a farm is $1,000 per job if the farm on which the structure is or is to be situated has an area of less than 5 acres. A residential structure on a farm has the small job allowance applicable under paragraph (b) (1) or paragraph (b) (2) of this supplement, as the case may be. A bunkhouse on a farm for farm laborers is considered a non-residential structure for the purpose of determining the applicable small job allowance. A "farm" means a place used primarily for the purpose of raising crops, livestock, dairy products or poultry for the market. Chicken hatcheries, plants used to raise mushrooms or other food products, and greenhouses (except those on residential property) and farm or ranches for raising fur-bearing animals are considered farms. Buildings situated on a farm and used primarily to process the products of that farm and buildings situated on a farm and used primarily to process materials for use on that farm are considered non-residential farm structures under this paragraph.

(c) *Small job allowances for conversion from residential purposes.* Regardless of the small job allowance given under paragraph (b) of this supplement for a particular structure, the small job allowance applicable to a job consisting of conversion to non-residential purposes of any part (or all) of a building last used for residential purposes is $200.

(d) *Structures used for more than one purpose.* If a structure is used for more than one purpose and might, therefore, fall within more than one of the classes indicated above, the use to which the greatest part of the structure will be put (computed on the basis of the floor area where applicable) determines the allowance. For example, if a building has three apartments occupying three floors of the building and a store on the ground floor, it is primarily residential and falls under paragraph (b) (1) of this supplement. If a building is half residential and half commercial or industrial or half residential and half agricultural, it is considered primarily residential. When alterations are being made to a

building, the applicable small job allowance is the allowance applicable to the building as a whole under paragraph (b). Except in cases covered by paragraph (c), the purpose for which the particular space being altered was or is to be used does not affect the amount of the allowance.

(e) *Subordinate structures.* Where a non-residential structure of any of the kinds listed in paragraph (b) (2) is situated, near and used in connection with, a structure having a $15,000 small job allowance under paragraph (b) (3), the same allowance applies to the subordinate structure if the floor area of the subordinate structure is or will be 10,000 square feet or more. This means that if an office building, warehouse or garage of this size is situated on the immediate premises of an industrial or utility structure having a $15,000 small job allowance and is used in connection with the operation of that structure, the office building, warehouse or garage also gets the $15,000 small job allowance. However, a "downtown" office building, even though used exclusively for one industrial or utility company, is always under paragraph (b) (2), regardless of its size, like other office buildings. All residential structures, however, always get the allowance applicable under paragraphs (b) (1) or (b) (2), and all structures specifically listed in paragraph (b) (4) always get the $500 small job allowance of that paragraph.

(f) *Separate jobs.* For the purpose of determining whether work is exempt from VHP–1 under this supplement, a related series of operations in a structure which are performed at or about the same time or as part of a single plan or program constitute a single job. No job which would ordinarily be done as a single piece of work may be sub-divided for the purpose of coming within the allowance given under this supplement. When a building or part of a building is being converted from one purpose to another all work incidental to and done i connection with the conversion must be considered as one job. So also if a building is being renovated, improved or modernized over an extended period all work done in connection with the modernization (other than the work done before the issuance of the order must be considered as part of one job, even though separate contracts are let for different parts of the work. However, if related work on two or more separate structures is performed, the work is not considered one job but the work done in each structure must be considered separately under the rules stated above. For example, if two or more related structures are to be built and the cost of each does not exceed the small job allowance applicable to each structure under paragraph (b) of this supplement, each of these structures may be built without getting an authorization under VHP–1. See paragraph (f) of Supplement 2 to VHP–1 for an explanation of what jobs are exempt from the order as having been started before it became effective.

(g) *How to figure cost.* For the purpose of determining whether a particular job is exempt from VHP–1 by this supplement, the "cost" of a job means the cost of the entire construction job as estimated at the time of beginning construction. (1) The cost of a job includes the following:

The cost or value of fixtures, mechanical equipment and materials incorporated in the structure, whether or not obtained without paying for them, except the items listed in paragraph (g) (2) below. (See Supplement 1 for definitions and illustrations of fixtures and mechanical equipment.)

The cost of paid labor engaged in the construction work, regardless of who pays for it, excluding, however, the cost of paid labor engaged in working on or installing fixtures, equipment or materials the cost of which need not be included in the cost of the job under paragraph (g) (2). If it is impracticable to allocate the labor specifically to exempt or non-exempt items, the cost of all paid labor may be divided between the work on the two different classes of items in proportion to the value of the two classes of items.

The amount paid for contractors' fees.

(2) The cost of a job does not include the following:

The cost or value of previously used fixtures, previously used mechanical equipment and previously used materials, when these have been severed from the same structure or another structure owned by the builder (the owner or occupant of the building) and are to be used without change of ownership.

The cost or value of materials used in repainting or repapering an existing structure or any unchanged part of a structure. However, this exception does not apply to painting a new structure or new parts of a structure which has been altered.

The cost or value of materials used in installing loose fill, blanket or batt insulation in existing buildings or in installing insulation on existing equipment or piping.

The cost or value of materials which were produced on the property of the owner or actual or proposed occupant of the structure, except where he is in business of producing these materials for sale (this exception does not include materials or products assembled by the builder from new or used materials not themselves excepted).

The value of unpaid labor and the cost of paid labor engaged in working on or installing fixtures, equipment or materials, the cost of which is exempt from the cost of the job.

The cost or value of machinery and equipment other than mechanical equipment.

Architect's and engineers' fees.

The cost of site preparation and other preparatory work which does not constitute beginning construction (Supplement 2 to VHP–1 contains illustrations of work which does not constitute beginning construction and the cost of which is not included in the cost of a job).

(60 Stat. 207; 50 U. S. C. App. Sup. 1821)

Issued this 1st day of June 1947.

OFFICE OF THE HOUSING EXPEDITER,
By JAMES V. SARCONE,
Authorizing Officer.

[F. R. Doc. 47–5331; Filed, June 2, 1947; 4:19 p. m.]

[Veterans' Housing Program Order 1, Supp. 5, as Amended June 1, 1947]

PART 809—VETERANS' HOUSING PROGRAM ORDERS

PREPARING AND FILING APPLICATIONS

§ 809.6 *Supplement 5 to Veterans' Housing Program Order 1*—(a) *What this supplement does.* This supplement explains what kinds of construction, repair work, and other work restricted by VHP-1 are covered by the Housing Permit Regulation. It also contains instructions for preparing and filing applications for specific authorization under Veterans' Housing Program Order 1 to do construction, repair work, or other work restricted by VHP-1 but not covered by the Housing Permit Regulation.

WHERE APPLICATIONS SHOULD BE FILED

(b) *Construction covered by the Housing Permit Regulation.* (1) The construction of the following kinds of new structures in which 75% or more of the floor space is to be used for residential purposes is covered by the Housing Permit Regulation:

(i) Any building, structure or other construction item to be used for family housing purposes, whether occupied all year round or seasonally, and any apartment hotel, boarding house, rooming house, dormitory or other residential accommodations occupied for substantial periods of time, whether by single persons or by families, including also all subsidiary buildings, structures or construction items and used for residential purposes, such as garages, tool sheds, greenhouses, swimming pools, walls, fences, bulkheads, and the like. This includes family housing accommodations, either one family houses or apartments, and permanent residential quarters for individuals, whether these are to be built and owned by private individuals, corporations, public organizations or educational or other institutions. It also includes prefabricated houses, permanently installed trailers, and the like. This paragraph does not include summer or winter camps or hotels, overnight guest houses, tourist cabins or other accommodations for transients. Restaurants, laundry rooms and toilet facilities built in connection with tourist cabins and trailer camps are not covered by this paragraph, except where the toilet facilities or laundry rooms are to be used by the occupants of permanently installed trailers.

(ii) Dormitories, and living facilities such as dining halls built and to be used exclusively in connection with a new dormitory, and subsidiary buildings for trailer camps such as laundry rooms, toilet facilities and the like, when they are built by an educational institution or a public organization and dormitories

built under the sponsorship of an educational organization. "Educational institution" means a school, including a trade or vocational school, a college, a university or any similar institution of learning. "Public organization" means the United States government, a state, county, city, town, village or other municipal government, or an agency, instrumentality or authority of such a governing body.

(iii) Farm houses and other residential accommodations on farms, and bunkhouses for transient farm labor.

Paragraph (b) (1) does not include accommodations, the primary purpose of which is non-residential, such as wards or rooms for patients or inmates in hospitals, mental hospitals, insane asylums, orphanages, old people's homes, police barracks or cell blocks in jails. It also does not include housing accommodations constructed by or for the account of the U. S. Army or Navy.

(2) Regardless of the primary purpose for which a structure as a whole is used or is to be used, construction, alterations, additions or repairs in the structure are covered by the Housing Permit Regulation if 75% or more of the floor space involved in the proposed work will be used for residential purposes of the kinds described above.

(3) Applications for amendments to projects approved under Priorities Regulation 33 or Housing Expediter Priorities Regulation 5 should be filed in accordance with those regulations.

(4) The Housing Permit Regulation no longer requires that an application be filed for authorization to begin construction or other work of the kind covered by paragraphs (b) (1) and (b) (2) of this supplement. The Housing Permit Regulation now automatically authorizes certain persons to begin specified kinds of construction without filing any application or getting specific authorization.

Any person not authorized by the Housing Permit Regulation to do work covered by that order may file an appeal with the appropriate State or District Office of the Federal Housing Administration, except that appeals by educational institutions or by public organizations relating to any kind of residential accommodations to be built by them, and appeals relating to single person residential accommodations to be built or converted under the sponsorship of an educational institution, should be filed with the appropriate Regional Office of the Federal Public Housing Authority.

(5) Under paragraphs (b) (1) and (b) (2) the amount of floor space to be used for residential purposes and the amount to be used for other purposes will determine whether the work is covered by the Housing Permit Regulation. In computing floor area for these purposes, hallways and other public spaces should be excluded from the computation. Basement space should also be excluded even though used for storage space for stores or for apartments, except where all or part of the basement is used for an apartment or rooms for living purposes, or for selling or exhibition space for a store, or for a commercial garage which is open to the public.

(c) *Applications to be filed with the OHE District Construction Offices.* All applications for authorization under VHP–1 not covered by paragraph (b) should be filed on Form OHE 14–171 (formerly CPA–4423) with the appropriate OHE District Construction Office.

PREPARING APPLICATIONS FOR NON-HOUSING CONSTRUCTION

(d) *Cost.* Form OHE 14–171 (formerly CPA–4423) requires the applicant to state the estimated cost of the proposed construction job for which he is requesting authorization in Item 5. This item is broken down into two parts: the cost of the structure and the cost of fixtures (heating, plumbing, lighting and ventilating equipment).

(1) Under the cost of the structure in Item 5, the applicant should state the cost of the structure, excluding the cost of processing and service equipment and the cost of fixtures and mechanical equipment and also excluding the cost or value of the land or existing structures and architects' and engineers' fees.

The applicant should not include in this figure the cost or value of materials and labor which do not constitute part of the cost of the construction job under paragraph (g) of Supplement 3 to VHP–1. Paragraph (g) (2) of that supplement lists numerous specific items which are excluded from the cost of a job under VHP–1.

(2) Under the cost of fixtures (heating, plumbing, lighting and ventilating equipment), the applicant should include the cost of the items covered by paragraph (b) (1) of Supplement 1 to VHP–1 together with the cost of any items listed under paragraph (b) (3) of Supplement 1 which are so built as to become a part of the building. The applicant should not include in this item the cost of any items which are excluded from the cost of the job under paragraph (g) of Supplement 3 to VHP–1.

(3) The applicant should not include under Item 5 the cost of processing equipment or service equipment of the kinds listed and described in paragraph (b) (2) of Supplement 1 to VHP–1.

(e) *Applicant.* In reviewing an application to determine whether it should be approved, the Office of the Housing Expediter relies upon the statements and representations made in the application and in supplementary documents filed with the application. Severe criminal penalties may be imposed for making wilfully false statements or representations in connection with these applications. This imposes upon persons making statements and representations in connection with applications great responsibility for the correctness of these statements and representations. In addition, the granting of the authorization imposes upon the builder and others concerned with the project, the responsibility of carrying out the provisions of the authorization and the representations made. For this reason it is important that each of the statements and representations involved should be made by a person familiar with the facts and responsible for their correctness and truthfulness. Contractors and architects and landlords may be in a position to assume responsibility for the performance of the construction in accordance with the authorization but ordinarily they are not in a position to accept responsibility for the correctness of statements and representations as to the need for the building and the use to which it will be put. The application should be made and signed by the person who is to be responsible for the construction, normally the individual who, or a responsible officer of the corporation which, owns or is to own the building or other structure involved. If the person who signs the application is not personally familiar with the need for the proposed work and therefore is not in a position to assume responsibility for statements and representations with respect to the need for the building and the purpose to which it is to be put, these statements and representations should be made in a letter attached to the application signed by the prospective occupant of the building or a responsible officer of the corporation which is to occupy it, or any other person who is in a position to accept the responsibility for these statements.

(f) *Compliance cases.* If a builder wishes to complete construction of a project on which some work has been done, and on which construction has been stopped, this fact should be stated in the application. The applicant should give, either on the application or in a letter attached to the application, full information about the beginning of the construction, including a statement of the nature and cost of the work previously done and a statement as to when it was done and including also a statement as to the exact nature and the estimated cost of the work required for completion, together with a statement about the circumstances under which construction was stopped, referring particularly to any stop telegram, suspension order, consent order or injunction involved. If the application is approved, authorization will be given only for the work which has not yet been done.

(60 Stat. 207; 50 U. S. C. App. Sup. 1821)

Issued this 1st day of June 1947.

OFFICE OF THE HOUSING EXPEDITER,
By JAMES V. SARCONE,
Authorizing Officer.

[F. R. Doc. 47–5335; Filed, June 2, 1947; 4:20 p. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Bureau of Internal Revenue, Department of the Treasury

Subchapter B—Estate and Gift Taxes

[T. D. 5565]

PART 82—TAXATION PURSUANT TO TREATIES

SUBPART—UNITED KINGDOM

Regulations relating to estate tax pursuant to convention between the United States and the United Kingdom, proclaimed by the President of the United States on July 30, 1946.

Sec.

AUTHORITY: §§ 82.101 to 82.109, inclusive, issued under sec. 3791, and chapter 3, 53 Stat. 467; 119; 26 U. S. C. 467, 119.

§ 82.101 *Proclamation of President, text of convention, and statutory provisions authorizing regulations.* The proclamation of the President of the United States, containing the text of the convention between the United States and the United Kingdom of Great Britain and Northern Ireland relating to Federal estate taxes and the estate duties imposed in Great Britain and Northern Ireland (hereinafter referred to as the convention), is set forth below:

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

Whereas a convention between the United States of America and the United Kingdom of Great Britain and Northern Ireland for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on the estates of deceased persons was signed by their respective Plenipotentiaries at Washington on April 16, 1945, the original of which convention is word for word as follows:

The Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland,

Desiring to conclude a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on the estates of deceased persons,

Have appointed for that purpose as their respective Plenipotentiaries:

The Government of the United States of America:

Mr. Edward R. Stettinius, Jr., Secretary of State, and

The Government of the United Kingdom of Great Britain and Northern Ireland:

The Right Honorable the Earl of Halifax, K. G., Ambassador Extraordinary and Plenipotentiary in Washington,

Who, having exhibited their respective full powers, found in good and due form, have agreed as follows:

ARTICLE I

(1) The taxes which are the subject of the present Convention are:

(a) In the United States of America, the Federal estate tax, and

(b) In the United Kingdom of Great Britain and Northern Ireland, the estate duty imposed in Great Britain.

(2) The present Convention shall also apply to any other taxes of a substantially similar character imposed by either Contracting Party subsequently to the date of signature of the present Convention or by the government of any territory to which the present Convention applies under Article VIII or Article IX.

ARTICLE II

(1) In the present Convention, unless the context otherwise requires:

(a) The term "United States" means the United States of America, and when used in a geographical sense means the States, the Territories of Alaska and of Hawaii, and the District of Columbia.

(b) The term "Great Britain" means England, Wales and Scotland, and does not include the Channel Islands or the Isle of Man.

(c) The term "territory" when used in relation to one or the other Contracting Party means the United States or Great Britain, as the context requires.

(d) The term "tax" means the estate duty imposed in Great Britain or the United States Federal estate tax, as the context requires.

(2) In the application of the provisions of the present Convention by one of the Contracting Parties, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting Party relating to the taxes which are the subject of the present Convention.

ARTICLE III

(1) For the purposes of the present Convention, the question whether a decedent was domiciled in any part of the territory of one of the Contracting Parties at the time of his death shall be determined in accordance with the law in force in that territory.

(2) Where a person dies domiciled in any part of the territory of one Contracting Party, the situs of any of the following rights or interests, legal or equitable, which for the purposes of tax form part of the estate of such person or pass on his death, shall, for the purposes of the imposition of tax and for the purposes of the credit to be allowed under Article V, be determined exclusively in accordance with the following rules, but in cases not within such rules the situs of such rights and interests shall be determined for those purposes in accordance with the law relating to tax in force in the territory of the other Contracting Party:

(a) Rights or interests (otherwise than by way of security) in or over immovable property shall be deemed to be situated at the place where such property is located;

(b) Rights or interests (otherwise than by way of security) in or over tangible movable property, other than such property for which specific provision is hereinafter made, and in or over bank or currency notes, other forms of currency recognized as legal tender in the place of issue, negotiable bills of exchange and negotiable promissory notes, shall be deemed to be situated at the place where such property, notes, currency or documents are located at the time of death, or, if in transitu, at the place of destination;

(c) Debts, secured or unsecured, other than the forms of indebtedness for which specific provision is made herein, shall be deemed to be situated at the place where the decedent was domiciled at the time of death;

(d) Shares or stock in a corporation other than a municipal or governmental corporation (including shares or stock held by a nominee where the beneficial ownership is evidenced by scrip certificates or otherwise) shall be deemed to be situated at the place in or under the laws of which such corporation was created or organized;

(e) Monies payable under a policy of assurance or insurance on the life of the decedent shall be deemed to be situated at the place where the decedent was domiciled at the time of death;

(f) Ships and aircraft and shares thereof shall be deemed to be situated at the place of registration or documentation of the ship or aircraft;

(g) Goodwill as a trade, business or professional asset shall be deemed to be situated at the place where the trade, business or profession to which it pertains is carried on;

(h) Patents, trademarks and designs shall be deemed to be situated at the place where they are registered;

(i) Copyright, franchises, and rights or licenses to use any copyrighted material, patent, trademark or design shall be deemed to be situated at the place where the rights arising therefrom are exercisable;

(j) Rights or causes of action ex delicto surviving for the benefit of an estate of a decedent shall be deemed to be situated at the place where such rights or causes of action arose;

(k) Judgment debts shall be deemed to be situated at the place where the judgment is recorded;

Provided, That if, apart from this paragraph, tax would be imposed by one Contracting Party on any property which is situated in its territory and passes under a disposition not governed by its law, this paragraph shall not apply to such property unless, by reason of its application or otherwise, tax is imposed or would but for some specific exemption be imposed thereon by the other Contracting Party.

ARTICLE IV

(1) In determining the amount on which tax is to be computed, permitted deductions shall be allowed in accordance with the law in force in the territory in which the tax is imposed.

(2) Where tax is imposed by one Contracting Party on the death of a person who at the time of his death was not domiciled in any part of the territory of that Contracting Party but was domiciled in some part of the territory of the other Contracting Party, no account shall be taken in determining the amount or rate of such tax of property situated outside the former territory: *Provided*, That this paragraph shall not apply as respects tax imposed—

(a) In the United States in the case of a United States citizen dying domiciled in any part of Great Britain; or

(b) In Great Britain in the case of property passing under a disposition governed by the law of Great Britain.

ARTICLE V

(1) Where one Contracting Party imposes tax by reason of a decedent's being domiciled in some part of its territory or being its national, that Party shall allow against so much of its tax (as otherwise computed) as is attributable to property situated in the territory of the other Contracting Party, a credit (not exceeding the amount of the tax so attributable) equal to so much of the tax imposed in the territory of such other Party as is attributable to such property; but this paragraph shall not apply as respects any such property as is mentioned in paragraph (2) of this Article.

(2) Where each Contracting Party imposes tax by reason of a decedent's being domiciled in some part of its territory, each Party shall allow against so much of its tax (as otherwise computed) as is attributable to property

which is situated, or is deemed under paragraph (2) of Article III to be situated,

(a) In the territory of both Parties, or

(b) Outside both territories,

a credit which bears the same proportion to the amount of its tax so attributable or to the amount of the other Party's tax attributable to the same property, whichever is the less, as the former amount bears to the sum of both amounts.

(3) For the purposes of this Article, the amount of the tax of a Contracting Party attributable to any property shall be ascertained after taking into account any credit, allowance or relief, or any remission or reduction of tax, otherwise than in respect of tax payable in the territory of the other Contracting Party or in any other country; and if, in respect of property situated outside the territories of both Parties, a Contracting Party allows against its tax a credit for tax payable in the country where the property is situated, that credit shall be taken into account in ascertaining, for the purposes of paragraph (2) of this Article, the amount of the tax of that Party attributable to the property.

ARTICLE VI

(1) Any claim for a credit or for a refund of tax founded on the provisions of the present Convention shall be made within six years from the date of the death of the decedent in respect of whose estate the claim is made, or, in the case of a reversionary interest where payment of tax is deferred until on or after the date on which the interest falls into possession, within six years from that date.

(2) Any such refund shall be made without payment of interest on the amount so refunded.

ARTICLE VII

(1) The taxation authorities of the Contracting Parties shall exchange such information (being information available under the respective taxation laws of the Contracting Parties) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of the present Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any person other than those concerned with the assessment and collection of the taxes which are the subject of the present Convention. No information shall be exchanged which would disclose any trade secret or trade process.

(2) As used in this Article, the term "taxation authorities" means, in the case of the United States, the Commissioner of Internal Revenue or his authorized representative; in the case of Great Britain, the Commissioners of Inland Revenue or their authorized representative; and, in the case of any territory to which the present Convention is extended under Article VIII, the competent authority for the administration in such territory of the taxes to which the present Convention applies.

ARTICLE VIII

(1) Either of the Contracting Parties may, on the coming into force of the present Convention or at any time thereafter while it continues in force, by a written notification of extension given to the other Contracting Party through diplomatic channels, declare its desire that the operation of the present Convention shall extend to all or any of its colonies, overseas territories, protectorates, or territories in respect of which it exercises a mandate, which impose taxes substantially similar in character to those which are the subject of the present Convention. The present Convention shall apply to the territory or territories named in such notification as to the estates of persons dying on or after the date or dates specified in the notification (not being less than sixty days from the date of the notification) or, if no date is specified in respect of any such territory, on or after the sixtieth day after the date of such notification, unless, prior to the date on which the Convention would otherwise become applicable to a particular territory, the Contracting Party to whom notification is given shall have informed the other Contracting Party in writing through diplomatic channels that it does not accept such notification as to that territory. In the absence of such extension, the present Convention shall not apply to any such territory.

(2) At any time after the expiration of one year from the entry into force of an extension under paragraph (1) of this Article, either of the Contracting Parties may, by written notice of termination given to the other Contracting Party through diplomatic channels, terminate the application of the present Convention to any territory to which it has been extended under paragraph (1), and in such event the present Convention shall cease to apply, as to the estates of persons dying on or after the date or dates (not being earlier than the sixtieth day after the date of such notice) specified in such notice, or, if no date is specified, on or after the sixtieth day after the date of such notice, to the territory or territories named therein, but without affecting its continued application to the United States, Great Britain or to any other territory to which it has been extended under paragraph (1) hereof.

(3) In the application of the present Convention in relation to any territory to which it is extended by the United States or the United Kingdom, references to "United States" or, as the case may be, "Great Britain," or to the territory of one (or of the other) Contracting Party, shall be construed as references to that territory.

(4) The provisions of the preceding paragraphs of this Article shall apply to the Channel Islands and the Isle of Man as if they were colonies of the United Kingdom.

ARTICLE IX

The present Convention shall apply in relation to estate duty imposed in Northern Ireland as it applies in relation to estate duty imposed in Great Britain, but shall be separately terminable in respect of Northern Ireland by the same procedure as is laid down in paragraph (2) of Article VIII.

ARTICLE X

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged at Washington as soon as possible.

(2) The present Convention shall come into force on the date of exchange of ratifications and shall be effective only as to

(a) The estates of persons dying on or after such date; and

(b) The estate of any person dying before such date and after the 31st day of December, 1944, whose personal representative elects, in such manner as may be prescribed, that the provisions of the present Convention shall be applied to such estate.

ARTICLE XI

(1) The present Convention shall remain in force for not less than three years after the date of its coming into force.

(2) If not less than six months before the expiration of such period of three years, neither of the Contracting Parties shall have given to the other Contracting Party, through diplomatic channels, written notice of its intention to terminate the present Convention, the Convention shall remain in force after such period of three years until either of the Contracting Parties shall have given written notice of such intention, in which event the present Convention shall not be effective as to the estates of persons dying on or after the date (not being earlier than the sixtieth day after the date of such notice) specified in such notice, or, if no date is specified, on or after the sixtieth day after the date of such notice.

In witness whereof the above-mentioned Plenipotentiaries have signed the present Convention and have affixed thereto their seals.

Done at Washington, in duplicate, on the 16th day of April, 1945.

For the Government of the United States of America:

[SEAL] E. R. STETTINIUS, Jr.

For the Government of the United Kingdom of Great Britain and Northern Ireland:

[SEAL] HALIFAX.

And Whereas the said convention has been ratified by both Governments, and the instruments of ratification of the two Governments were exchanged at Washington on the twenty-fifth day of July, 1946;

And Whereas it is provided in Article X of the said convention that on the date of the exchange of ratifications the convention shall be effective as to the estates of persons dying on or after such date, and as to the estate of any person dying before such date and after the thirty-first day of December 1944, whose personal representative elects, in such manner as may be prescribed, that the provisions of the said convention shall be applied to such estate;

Now, therefore, be it known that I, Harry S. Truman, President of the United States of America, do hereby proclaim and make public the said convention to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States of America, and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof, the said convention being deemed to have effect as provided in Article X thereof, as aforesaid.

In testimony whereof, I have hereunto set my hand and caused the Seal of the United States of America to be hereunto affixed.

Done at the city of Washington this thirtieth day of July in the year of our Lord one thousand nine hundred forty-six and of the Independence of the United States of America the one hundred and seventy-first.

[SEAL] HARRY S. TRUMAN

By the President:

DEAN ACHESON,
Acting Secretary of State.

Section 3791 of the Internal Revenue Code provides as follows:

(a) *Authorization*—(1) *In general.* * * * the Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this title.

(2) *In case of change in law.* The Commissioner may make all such regulations, not otherwise provided for, as may have become necessary by reason of any alteration of law in relation to internal revenue.

(b) *Retroactivity of regulations or rulings.* The Secretary, or the Commissioner with the approval of the Secretary, may prescribe the extent, if any, to which any ruling, regulation, or Treasury decision, relating to the internal revenue laws, shall be applied without retroactive effect.

§ 82.102 *Scope of regulations.* Sections 82.101 to 82.109, inclusive, pertain to the application of the Federal estate tax as modified under the provisions of the convention in the case of a decedent who at time of death was domiciled in either the United States or the United Kingdom of Great Britain and Northern

Ireland, or was a citizen of the United States, and whose death occurred:

(a) On or after July 25, 1946, the date of exchange of ratifications, or

(b) After December 31, 1944, and before July 25, 1946, if the person charged with the duty of filing the return elects that the provisions of the convention shall be applied. Such election shall be made in a written statement filed in duplicate with the collector of internal revenue at the time the return is filed or as soon thereafter as possible. (Article X (2) of the convention.)

Sections 82.101 to 82.109, inclusive, also pertain to related administrative matters and to the furnishing of information by the tax authorities of each country to such authorities of the other country which may be needed in carrying out the provisions of the convention or in preventing fraud or avoidance with respect to the taxes which are the subject of the convention. (Article VII of the convention.)

The provisions of the convention are restricted to the estate tax imposed by the United States, the estate duty imposed in Great Britain, and the estate duty imposed in Northern Ireland, and do not comprehend any of the estate, inheritance, legacy, and succession taxes imposed by the States, Territories, the District of Columbia, and possessions of the United States or the legacy and succession duties imposed in Great Britain and Northern Ireland. (Articles I and IX of the convention.)

The credits against the Federal estate tax, authorized by section 813 (a) and section 936 of the Internal Revenue Code for Federal gift taxes and by section 813 (b) thereof for estate, inheritance, legacy, or succession taxes paid any State, Territory, the District of Columbia, or possession of the United States, are not affected. (Article V (3) of the convention.)

In the application of the provisions of the convention the estate duty imposed in Great Britain and the estate duty imposed in Northern Ireland are to be separately considered, and the term "United Kingdom" as used in §§ 82.101 to 82.109, inclusive, may either refer to Great Britain or Northern Ireland, depending upon the circumstances of the particular case.

§ 82.103 *Domicile and citizenship.* Determinations with respect to the decedent's domicile and citizenship at time of death are required in order to ascertain whether the estate is within the scope of the convention, and if so, such determinations are necessary for two further purposes, i. e., first, in order to ascertain the property that may be included in the application of the tax, and, second, in order to ascertain the credit for death duties authorized by the convention. For such purposes, domicile and citizenship shall be determined in accordance with the laws of the contracting country which imposes the tax by reason of the decedent's being domiciled therein or a citizen thereof. Where in a particular case only one of the contracting countries asserts tax by reason of the decedent's being domiciled therein, the other contracting country is bound by such determination of domicile for all purposes of the convention, and will not, for instance, in the imposition of its tax on the basis of situs of property disregard the situs rules established by Article III by contending that the decedent was domiciled in a third country. (Article III (1), Article IV (2) (a) and Article V of the convention.)

For the purpose of determining whether the decedent was domiciled in either contracting country at time of death, the United States includes the States thereof, the Territory of Alaska, the Territory of Hawaii, and the District of Columbia, and the United Kingdom of Great Britain and Northern Ireland includes Great Britain (England, Wales and Scotland) and Northern Ireland. For this purpose the United Kingdom does not include the Channel Islands or the Isle of Man. (Article II (1) of the convention.)

§ 82.104 *Situs of property.* The determination of the situs of property is necessary for two purposes, i. e., first, in order to ascertain the property that may be included in the application of the tax if jurisdiction is based upon situs of property within the country, and, second, in order to ascertain the credit for death duties authorized by the convention since the crediting country only allows such credit under paragraph (1) of Article V with respect to property situated in the other contracting country and under paragraph (2) of Article V with respect to property situated outside both contracting countries or with respect to property deemed to be situated in both such countries. For such purposes, the convention provides rules of situs for specific classes of property as hereinafter set forth. These rules are applicable only in case the decedent was at time of death domiciled in the United States or the United Kingdom. The convention also provides that with respect to property not within the described classes, if the decedent was domiciled in the United States the situs thereof shall be determined in accordance with the law of the United Kingdom, or if the decedent was domiciled in the United Kingdom the situs thereof shall be determined in accordance with the law of the United States. The rules of situs provided by the convention are not applicable in the case of a deceased citizen of the United States who was not domiciled in either country. (Article III (2) of the convention.)

Specific applications of the foregoing principles are shown by the following:

(a) If one of the contracting countries taxes on the basis of domicile and the other on the basis of situs of property, the allowance of credit by the former and the imposition of tax by the latter are determined in accordance with the situs rules of the convention with respect to property of the described classes and in accordance with the situs rules under the law of the latter with respect to any property not within such classes.

(b) If the United States taxes on the basis of citizenship and the United Kingdom taxes on the basis of domicile (the United States not regarding the domicile of the decedent as having been in the United States), the allowance of credit by each country is determined in accordance with the situs rules of the convention with respect to property of the described classes and in accordance with the situs rules under the law of the United States with respect to any property not within such classes.

(c) If the United States taxes on the basis of citizenship and the United Kingdom taxes on the basis of situs of property (both contracting countries considering that the decedent was domiciled in a third country), the allowance of credit by the United States and the imposition of tax by the United Kingdom are determined in accordance with the situs rules under the law of the United Kingdom with respect to both the property of the described classes and the property not within such classes. In this case the situs rules of the convention are not applicable to any extent.

(d) If both contracting countries tax on the basis of domicile, the allowance of credit by the United States is determined in accordance with the situs rules of the convention with respect to the property of the described classes and in accordance with the situs rules under the law of the United Kingdom with respect to any property not within such classes, and the allowance of credit by the United Kingdom is determined in accordance with the situs rules of the convention with respect to the property of the described classes and in accordance with the situs rules under the law of the United States with respect to any property not within such classes. Rules of situs provided by the convention for specific clases of property follow:

(1) *Real property and leaseholds.* Immovable property shall be deemed to be situated at the place where the land involved is located. Immovable property comprises real property and leases of real property. The duration of the lease is immaterial. Immovable property does not include mortgages, liens or other right or interest in real or immovable property by way of security. Although for the purpose of this situs rule leaseholds are classed with real property, this provision of the treaty does not purport to extend the scope of the term "real property" as used in the first paragraph of section 811 of the Internal Revenue Code whereunder real property (but not a lease of real property) situated outside the United States is excluded from the gross estate. (Article III (2) (a) of the convention.)

(2) *Tangible personal property.* Tangible movable property (tangible personal property), except as hereinafter specifically provided in this paragraph with respect to ships and aircraft, shall be deemed to be situated at the place of physical location at the time of the decedent's death, or, if in transitu, at the place of destination. Tangible personal property includes bank notes and other forms of currency recognized as legal tender at the place of issue. (Article III (2) (b) of the convention.)

(3) *Ships and aircraft.* Ships and aircraft and fractional interests therein shall be deemed to be situated at the place of registration or documentation of such ships and aircraft. (Article III (2) (f) of the convention.)

(4) *Bonds and other forms of indebtedness.* Debts included as assets of the estate (credits), except as hereinafter

specifically provided in this paragraph with respect to judgment debts and negotiable promissory notes and bills of exchange, shall be deemed to be situated where the decedent was domiciled at the time of his death. This rule refers to both secured and unsecured debts, and comprehends bonds, simple contract debts, and bank deposits characterized by the debtor-creditor relationship. Issues of stock, such as are common in the United Kingdom, which are evidences of debts and do not represent stockholders' proprietary shares are properly classifiable with bonds. Such issues include stock issued by municipal or governmental corporations, stock issued by public boards, and debentures or debenture stock of a corporation. (Article III (2) (c) of the convention.)

(5) *Judgment debts.* Judgment debts shall be deemed to be situated where the judgment is recorded. (Article III (2) (k) of the convention.)

(6) *Negotiable promissory notes and bills of exchange.* Negotiable promissory notes and bills of exchange shall be deemed to be situated at the place of the physical location of the documents at the time of decedent's death, or, if in transitu, at the place of destination. (Article III (2) (b) of the convention.)

(7) *Stock.* Shares of stock of a corporation shall be deemed to be situated at the place in or under the laws of which such corporation was created or organized. This rule comprehends shares of stock held by a nominee where the beneficial ownership is evidenced by scrip certificates or otherwise. This rule has no reference to issues of stock, such as are common in the United Kingdom, which are evidences of debts, do not represent stockholders' proprietary shares, and are properly classifiable with bonds. Such issues include stock issued by municipal or governmental corporations, stock issued by public boards, and debentures or debenture stock of a corporation. (Article III (2) (d) of the convention.)

(8) *Life insurance.* Proceeds of insurance on the life of the decedent shall be deemed to be situated where the decedent was domiciled at the time of his death. (Article III (2) (e) of the convention.)

(9) *Goodwill.* Goodwill as a trade, business or professional asset shall be deemed to be situated at the place where the business or profession, to which it pertains, is carried on. (Article III (2) (g) of the convention.)

(10) *Patents, trademarks and designs.* Patents, trademarks and designs shall be deemed to be situated at the place where they are registered. (Article III (2) (h) of the convention.)

(11) *Copyrights and licenses to use copyrights, patents, trademarks and designs.* Copyrights, franchises, and rights or licenses to use any copyrighted material, patent, trademark or design, shall be deemed to be situated at the place where the rights arising therefrom are exercisable. (Article III (2) (i) of the convention.)

(12) *Actions ex delicto.* Rights or causes of action ex delicto surviving for the benefit of the estate of a decedent shall be deemed to be situated at the place where such rights or causes of action arise. (Article III (2) (j) of the convention.)

The rules whereunder property of certain classes shall be deemed to be situated at the place of the decedent's domicile are in effect rules exempting such classes of property from the tax imposed by reason of situs of property within each contracting State's jurisdiction.

Under a special proviso at the end of Article III of the convention, the foregoing rules of situs are not applicable in determining whether particular property may be subjected to tax by reason of its situs within the taxing country if (i) such property passes under a disposition not governed by its law, and (ii) such property is not subjected to the tax by the other contracting country for any reason other than the application of a specific exemption. In such case the situs of the property will be determined in accordance with the law of the taxing country.

This special proviso is particularly applicable to cases of settled property that come under the provisions of the estate duty statute of Great Britain or Northern Ireland. As an example of the operation of the special proviso under the estate duty statute, suppose the decedent's father established a trust governed by New York law under which the decedent was given a life estate with the remainder over absolutely to the trustor's grandson. The trustor, the life tenant and the remainderman were domiciled in and citizens of the United States. Under this special proviso, the corpus of the trust, consisting of shares of stock of a United States corporation evidenced by certificates in bearer form physically located in Great Britain, would be regarded as situated in Great Britain without the application of the situs rules of Article III and would be subjected to the estate duty reaching settled property since (i) such property passes under a disposition not governed by the law of Great Britain and (ii) such property is not subjected to the tax by the United States regardless of the $60,000 specific exemption.

Although the primary purpose of this special proviso concerns settled property under the estate duty statute of Great Britain or Northern Ireland, it is applicable under the Federal estate tax statute in some cases involving certain unusual circumstances. As an example of the operation of the special proviso under the Federal estate tax statute, suppose the decedent in contemplation of death established a trust for the benefit of his children, the property transferred by gift to the trust consisting of shares of stock of a British corporation evidenced by certificates physically located in the United States. The gift was made six years before the decedent's death and the decedent retained no possession or enjoyment or any other right in the property. The decedent and the beneficiaries were domiciled in Great Britain and the trust is governed by British law. Under the special proviso, the situs rules of Article III would be inapplicable and the shares of stock would be regarded as situated in the United States and subjected to the Federal estate tax since (i) such property passes under a disposition not governed by United States law and (ii) such property is not, regardless of any specific exemption, subjected to the estate duty imposed in Great Britain.

For the purpose of determining whether property is situated in either contracting country, the United States includes the States thereof, the Territory of Alaska, the Territory of Hawaii and the District of Columbia, and the United Kingdom of Great Britain and Northern Ireland includes Great Britain (England, Wales and Scotland) and Northern Ireland. For this purpose the United Kingdom does not include the Channel Islands or the Isle of Man. (Article II (1) of the convention.)

§ 82.105 *Taxation on basis of domicile, citizenship, or the law governing disposition of property.* Both the United States and the United Kingdom assume jurisdiction for the tax upon the basis of domicile within the taxing country. In addition, the United States, but not the United Kingdom, assumes jurisdiction for the tax upon the basis of citizenship, and the United Kingdom, but not the United States, assumes jurisdiction for the tax upon the basis of the law governing the disposition of the property. Thus, tax in Great Britain is imposed in respect of property passing under a disposition (such as a trust) governed by the law of Great Britain, even though the decedent was not domiciled in Great Britain and the property is not regarded as situated in Great Britain. (Article IV (2) (b) of the convention.)

The application of the tax (the Federal estate tax or the estate duty imposed in Great Britain or Northern Ireland, as the case may be) in any of the foregoing cases is not affected by the convention, except insofar as credit is authorized under Article V. The convention does not prohibit the subjection to tax in any of the foregoing cases, of any property (real or personal) situated outside the taxing country and in the other contracting country. However, by section 811 of the Internal Revenue Code, real property (but not a lease of real property) situated outside the United States is excluded from the gross estate. Under the present practice in the United Kingdom, immovables located outside the United Kingdom are, with rare exception, not subjected to estate duty.

§ 82.106 *Taxation on basis of situs of property.* In case jurisdiction to impose the tax by one of the contracting countries is based upon situs of property within such country and the decedent was at the time of death domiciled in the other contracting country, the convention provides that property situated outside the former shall not be taken into account in determining the amount or rate of such tax. (Article IV (2) of the convention.) For the purpose of determining what property is situated within the country and, therefore, subject to taxation on the basis of situs, the provisions of § 82.104 are pertinent. The rules of situs for certain classes of property prescribed by Article III of the convention and § 82.104 are applicable to the imposition of the Federal estate tax in

the case of a decedent who at time of death was not domiciled in or a citizen of the United States, and who was domiciled in the United Kingdom. The rules that certain classes of property shall be deemed to be situated where the decedent was domiciled are in effect rules exempting such classes of property from taxation on the basis of situs.

The deductions from the gross estate in the case of a nonresident not a citizen of the United States authorized by section 861 of the Internal Revenue Code, including the specific exemption of $2,000 prescribed thereunder, are unaffected. (Article IV (1) of the convention.) The restrictions of the preceding paragraph do not affect what is referred to in section 861 (a) (1) of the Internal Revenue Code as the gross estate wherever situated, and utilized in ascertaining the proportionate deductions for administration expenses, debts, etc., as prescribed in § 81.52 of Treasury Regulations 105 (26 CFR 81.52).

§ 82.107 *Credit for estate duties imposed in Great Britain and Northern Ireland*—(a) *General.* In the case of the estate of a decedent who at time of death was domiciled in or a citizen of the United States, credit is authorized against the Federal estate tax for Great Britain or Northern Ireland estate duty computed in accordance with the provisions of the convention and paid in respect of property situated as hereinafter provided and subject to such taxes by both the United States and Great Britain or Northern Ireland. No credit is allowable for any interest or penalty paid in connection with the estate duty. (Article V of the convention.)

Real property situated in the United Kingdom is not subjected to the Federal estate tax. Also, Great Britain and Northern Ireland subject to estate duty trust property (as, for example, on the death of a life tenant who was not the settlor and who had no other interest in the property) which is not subjected to Federal estate tax. Credit is not allowable under the convention for estate duty paid in respect of such property, since the requirement of double taxation is not fulfilled.

If only a part of the property subjected to estate duty imposed in Great Britain or Northern Ireland meets both of the required conditions (i. e., as to situs and double taxation), it will be necessary to determine the portion of such estate duty attributable to such part. Such portion of the estate duty (provided all property is subjected to such estate duty at a uniform rate) is an amount, A, which bears the same ratio to B (the total amount of such estate duty) that C (the value of the property situated as hereinafter provided and subjected to such estate duty and to the Federal estate tax) bears to D (the value of all property subjected to such estate duty). The values used in this proportion are the net values determined for the purpose of the Great Britain or Northern Ireland estate duty. If for any reason property is subjected to such estate duty at other than a uniform rate, a separate computation is to be made with respect to property taxed at each rate.

As an example of the determination of the amount of United Kingdom estate duty attributable to specific property, assume that a deceased resident of the United States owned personal property in Great Britain, $12,000, and real property in Great Britain, $12,000, and owed debts (not charged on any particular property) of $4,000 to persons resident in Great Britain. Under the British statute, the estate duty is computed as follows:

	Net value
Net value of personal property ($12,000 less $4,000)	$8,000
Net value of real property	12,000
Total net value	20,000
Rate of estate duty (percent)	9.6
Estate duty	1,920

The amount of estate duty attributable to the personal property is $\frac{8,000}{20,000} \times \$1,920$, or $768.

Similarly, the amount of the Federal estate tax attributable to the property which meets the required conditions (as to situs and double taxation) is an amount, A, which bears the same ratio to B (the Federal estate tax) as C (the value of the property situated as hereinafter provided and subjected to both the estate duty imposed in Great Britain or Northern Ireland and the Federal estate tax, or such value adjusted as hereinafter indicated) bears to D (the value of the gross estate, or such value adjusted as hereinafter indicated). The values used in this proportion are the values determined for the purpose of the Federal estate tax, and amounts C and D of the proportion are to be reduced by the amount of any deductions allowable under section 812 of the Internal Revenue Code in respect of such property (1) lost during the settlement of the estate, (2) identified as previously taxed property or (3) specifically bequeathed or devised for charitable, etc., uses.

The amount of the estate tax or estate duty attributable to specific property is, for the purposes of this section, the amount ascertained after the allowance of any applicable credit, remission or reduction of tax, other than, first, credit authorized under this convention and, second, (except as otherwise provided in paragraph (c) of this section) credit authorized under death duty conventions between the United States and any other country. In determining by proportion the amount of estate tax or estate duty attributable to property which meets the required conditions to the allowance of credit the following rules apply:

(i) If the credit (as, for example, the credit for State inheritance tax) does not pertain to specific property, the amount of tax ascertained after the allowance of such credit should be proportioned.

(ii) If the credit pertains to specific property, the tax ascertained before the allowance of such credit should be proportioned, and the amount of tax thus found to be attributable to the property which meets the required conditions should then be reduced by the amount of such credit pertaining to such property. Examples of credit pertaining to specific property are the Federal gift tax credit, credits under death duty conventions, the British quick succession allowance, the British allowance for colonial death duties, the British allowance for settlement estate duty, the British allowance for duties paid before August 2, 1894, and the remissions of British estate duty under the Killed in War Acts.

(It may be noted that in consequence of this rule the estate duty imposed in Great Britain or Northern Ireland is to be reduced by credit allowable against such duty for the tax paid in a British possession or in any other country only if such credit pertains to the same property in respect of which credit is allowable under this section.)

For the purpose of determining the situs of property in respect of which credit is claimed, the provisions of § 82.104 are pertinent.

If at the time the Federal estate tax return, Form 706, is filed, the estate duty imposed in Great Britain or Northern Ireland has not been determined and paid, credit therefor may be entered on the return in an estimated amount. The computation of the credit should be set forth on Form 706e, "Computation of Credit for United Kingdom Estate Duty," the supplemental form prescribed for the purpose.

However, before credit for Great Britain or Northern Ireland estate duty is finally allowed, a statement by an authorized official of the Estate Duty Office of Great Britain or Northern Ireland must be submitted certifying (*a*) the full amount of such estate duty (exclusive of any interest or penalties), as computed before allowance of any credit, remission or relief, (*b*) the amount of any credit, allowance, remission or relief and other pertinent information, including the nature of such allowance and a description of the property to which it pertains, (*c*) the net estate duty payable after any such allowance, (*d*) the date on which the estate duty was paid, or if not all paid at one time, the amount and date of each partial payment, and (*e*) a list of the property situated in Great Britain or Northern Ireland and subjected to the estate duty, showing the description of each item and the value thereof. The certificate shall also show that such amount of estate duty was computed in accordance with applicable provisions of the convention, and that no refund of such estate duty is pending and none authorized, or if any such refund is pending or has been authorized, the amount thereof and other pertinent information. The following information should also be certified whenever applicable:

(*i*) If any of the property subjected to such estate duty was situated outside Great Britain or outside Northern Ireland, as the case may be, the description of each item of such property and the value thereof.

(*ii*) If for any reason property is subjected to such estate duty at more than one rate, such information pertaining thereto as is necessary to determine the correct credit.

(*iii*) If payment of any portion of such estate duty has been postponed, a de-

scription of the property in respect of which such postponement was granted.

(iv) If paragraph (2) of Article V of the convention is applicable, such information pertaining to situs of property as is necessary to determine the correct credit.

Form 706f, "Certification of United Kingdom Estate Duty," is prescribed for the above purpose. The Commissioner may require the submission of any additional proof deemed necessary to establish the right to credit.

If subsequent to the allowance of credit for estate duty imposed in Great Britain or Northern Ireland, a refund is made of any overpayment of such estate duty, then the person to whom the refund is made is required to advise the Commissioner thereof and pay any further Federal estate tax resulting from any reduction in the credit.

(b) *Decedent domiciled in or a citizen of the United States.* In the case of the estate of a decedent who at time of death was domiciled in or a citizen of the United States, credit is authorized against the Federal estate tax for any Great Britain or Northern Ireland estate duty paid in respect of property situated in Great Britain or Northern Ireland and subjected to such taxes by both the United States and Great Britain or Northern Ireland. However, such credit is not allowable in respect of any such property for which credit is authorized under the provisions of paragraph (c) of this section and paragraph (2) of Article V of the convention. (Article V (1) of the convention.)

Great Britain subjects to estate duty property situated outside Great Britain on the death of the owner domiciled in Great Britain. Property which forms the subject of a British trust is subjected to estate duty, even though such property is situated outside Great Britain and passes on the death of a person domiciled outside Great Britain. Credit is not allowable under this paragraph for British estate duty paid in respect of such property, since the requirement of situs is not fulfilled.

For the purpose of determining what property was at time of death situated in the United Kingdom, the provisions of § 82.104 are pertinent. In the case of a decedent who was at time of death domiciled in either the United States or the United Kingdom (but not in the case of a citizen of the United States not domiciled in either the United States or the United Kingdom), the rules of situs for certain classes of property prescribed by Article III of the convention and § 82.104 are applicable in determining whether property was situated in the United Kingdom. If the decedent was domiciled in the United States and was not domiciled in the United Kingdom, such rules of situs are applicable not only for purposes of allowance of credit by the United States but also for purposes of imposition of tax by the United Kingdom (where jurisdiction to tax is based on situs of property), and credit is allowable only for United Kingdom estate duty computed in accordance with such rules of situs.

The credit is limited to the amount of the Great Britain or Northern Ireland estate duty attributable to property which is (1) situated in Great Britain or Northern Ireland and (2) subjected to both such estate duty and the Federal estate tax. The amount of the credit is also limited to the amount of the Federal estate tax attributable to such property.

Example (1). The decedent was domiciled in the United States at time of death. The gross estate consists of shares of stocks of United States corporations, $50,000, bonds issued by British corporations, $50,000, and shares of stocks of British corporations, $50,000. Debts and administration expenses total $10,000. Under the situs rules of the convention the only property subjected to the British estate duty comprises the shares of stocks of the British corporations. The amount of the British estate duty as converted into United States money is $3,000. The amount of the Federal estate tax, after allowance of the State inheritance tax credit, is $14,780. The credit cannot exceed

$$\frac{50{,}000\ \text{(British property)}}{150{,}000\ \text{(gross estate)}} \times \$14{,}780 = \$4{,}926.67 \left(\begin{array}{c}\text{amount of estate tax attrib-} \\ \text{utable to British property}\end{array} \right)$$

As the amount of the British estate duty is less than the latter amount, credit for British estate duty is allowed in the amount of $3,000.

Example (2). The facts are the same as in the preceding example except that $20,000 of the British stocks are specifically bequeathed to a charitable organization. The amount of the British estate duty attributable to the property doubly taxed is $3,009. The amount of the Federal estate tax is $9,340. The credit cannot exceed the amount of the Federal estate tax attributable to the British stocks which is

$$\frac{30{,}000\ \text{(value of British stocks adjusted)}}{130{,}000\ \text{(gross estate adjusted)}} \times \$9{,}340 = \$2{,}155.38$$

The value of the British stocks and the value of the gross estate are adjusted as explained in paragraph (a) of this section. As the amount of the Federal estate tax attributable to the property doubly taxed is less than the amount of the British estate duty so attributable, the credit is allowable in the amount of the former, $2,155.38.

Example (3). The facts are the same as in example (1) except that $20,000 of the United States stocks are specifically bequeathed to charity. The amount of the British estate duty attributable to the property doubly taxed is $3,000. The amount of the Federal estate tax attributable to the property doubly taxed is

$$\frac{50{,}000\ \text{(value of British stocks)}}{130{,}000\ \text{(gross estate adjusted)}} \times \$9{,}340 = \$3{,}592.31.$$

The credit allowable is the lesser of the two amounts, $3,000.

Due to conflicts between rules of situs, property which under paragraph (2) of Article III of the convention and § 82.104 of this subpart is deemed to be situated in Great Britain or Northern Ireland may be subjected to tax in some other country. In such case, (i) credit may be allowable against the Federal estate tax for estate duty imposed in Great Britain or Northern Ireland with respect to the property and (ii) credit may be allowable against such estate duty for tax paid to the third country with respect to the same property. Under these circumstances, the credit allowable against the Federal estate tax is limited to the amount of the Great Britain or Northern Ireland estate duty attributable to the property as computed after allowance of credit for the tax paid in the third country.

Example (4). The facts are the same as in example (1) except that the certificates of $10,000 of the stocks of the British corporations were in bearer form physically located in Eire, and were subjected to duty in that country. Credit for the duty paid in Eire is allowed against the British estate duty. The credit against the Federal estate tax is limited to the amount of the British estate duty applicable to the British stocks, $3,000, less the amount of credit allowed against such duty for the duty paid in Eire.

In case credit against the Federal estate tax is allowable under the convention with the United Kingdom and under death duty conventions with one or more other countries, such credits shall be combined and the aggregate amount shall be credited against the Federal estate tax. If because of any conflict in situs rules the same property of the gross estate is subjected to tax by two foreign countries, the total amount of both credits allowable in respect of such property is limited to the amount of the Federal estate tax attributable to such property. If for any reason it is necessary to ascertain, in any case in which this limitation applies, the proportion of the combined credit which is allowed under each death duty convention, the combined credit shall be divided in proportion to the amount of credit allowable (before application of this limitation) under each convention in respect of such property.

Example (5). The gross estate includes stocks of British corporations, represented by certificates in bearer form physically located in Canada. Under the situs rules of Canada the British stocks are regarded as situated in Canada (this rule not being changed by the United States-Canada convention), and under the situs rules of the United States-United Kingdom convention the British stocks are regarded as situated in Great Britain. The Federal estate tax attributable to the property taxed in the three countries is $4,800, and credits for British estate duty and Canadian succession duty are determined at $4,000 and $2,000, respectively, before application of the limitation on their combined amount. The combined credits are limited to $4,800, the amount of the Federal estate tax attributable to the stocks. The credits for British estate duty and Canadian succession duty are therefore limited to $3,200 and $1,600, respectively, which amounts are in the same proportion as $4,000 and $2,000.

Example (6). The facts are the same as in example (1) except that the gross estate includes $50,000 of stocks of Canadian corporations instead of $50,000 of bonds of British corporations. A nephew is the sole legatee. The Canadian succession duty is $2,823.33, in which amount credit is allowable against the Federal estate tax under the death duty convention between the United States and Canada. The amount of the British estate duty attributable to the British stocks is $3,000. The amount of the Federal estate tax attributable to the Britsh stocks is

$$\frac{50{,}000\ \text{(British stocks)}}{150{,}000\ \text{(gross estate)}} \times \$14{,}780 = \$4{,}926.67$$

It may be noted the $14,780 is the amount of the Federal estate tax after allowance of State inheritance tax credit but before any allowance of the Canadian succession duty credit. The amount of the British estate duty credit is $3,000, and the total amount of the foreign tax credits allowable against the Federal estate tax under both the Canadian and British death duty conventions is $5,823.33. Since the Canadian succession duty and the British estate duty are not imposed in respect of the same property, the limitation illustrated in the preceding example does not apply.

(c) *Decedent regarded as domiciled in the United States and in the United Kingdom.* Whenever in any case it appears that both contracting countries have asserted or are contemplating the assertion of the tax on the basis of domicile, the evidence adduced with respect to the decedent's domicile will be carefully reviewed or facts pertaining thereto further investigated so that, if possible, both countries may agree upon the decedent's domicile. Since the basic principles of the law relating to domicile are alike in both countries, it is anticipated that such agreement will usually be reached.

However, if in a particular case the United States determines that the decedent was domiciled in the United States and asserts estate tax in accordance with such determination and Great Britain or Northern Ireland also determines that the decedent was domiciled in Great Britain or Northern Ireland and asserts estate duty in accordance with such determination, and no agreement is reached upon the decedent's domicile, then each contracting country will (in addition to any credit authorized under the provisions of paragraph (1) of Article V of the convention and paragraph (b) of this section) allow against its tax a credit in respect of property subjected to tax by both countries and deemed situated (1) in both countries or (2) outside both countries. The total of the credits authorized under this paragraph shall be equal to the amount of tax imposed with respect to such property by the country imposing the smaller tax, and shall be divided between the two countries in proportion to the amount of tax imposed by each of the two countries with respect to such property. (Article V (2) of the convention.)

Property deemed situated in both countries includes property which by the situs rules of paragraph (2) of Article III of the convention is deemed to be situated at the place where the decedent was domiciled at the time of his death. It also includes any property not within such rules which each country claims to be situated within its territory.

For the purposes of this paragraph the amount of the Federal estate tax attributable to property situated as herein provided and doubly taxed shall be the amount determined as provided in paragraph (a) of this section, reduced by the amount of any credit allowable in respect of such property under death duty conventions between the United States and any third country.

Example (1). After a careful review of the evidence the United States Government determines that the decedent was at time of death domiciled in the United States and the British Government determines that the decedent was at time of death domiciled in Great Britain. The gross estate consists of $200,000 of British stocks, $150,000 of United States stocks, and $50,000 of bonds, the certificates of which were at time of death located in the United States. Debts and charges are $20,000. The amount of the Federal estate tax, computed on the whole estate wherever situated, after allowance for State inheritance tax credit but before allowance for British estate duty credit is $81,940. The amount of the British estate duty, also computed on the whole estate wherever situated, before allowance for United States estate tax credit is $93,860. Under paragraph (1) of Article V of the convention, the United States allows credit for the British estate duty attributable to the $200,000 of British stocks which are regarded as situated in Great Britain under Article III of the convention. Such credit, computed as explained in paragraph (b) of this section, is $40,970. Similarly under paragraph (1) of Article V of the convention, Great Britain allows credit for the United States estate tax attributable to the $150,000 of United States stocks, the amount of such credit being $30,727.50. Since under Article III of the convention bonds are deemed to be situated in the country of the decedent's domicile, in this case the bonds are regarded as situated in both countries and with respect thereto credit is allowable by each country under the provisions of paragraph (2) of Article V of the convention. The amount of the Federal estate tax attributable to the $50,000 of bonds, as computed without allowance for British estate duty credit, is

$$\frac{50{,}000 \text{ (bonds)}}{400{,}000 \text{ (gross estate)}} \times \$81{,}940 \text{ (estate tax)} = \$10{,}242.50$$

The amount of the British estate duty attributable to the $50,000 of bonds, as computed without allowance for United States estate tax credit, is

$$\frac{50{,}000 \text{ (bonds)}}{400{,}000 \text{ (gross estate)}} \times \$93{,}860 \text{ (estate duty)} = \$11{,}732.50$$

Since $10,242.50 is the smaller of the two amounts, such amount is the total of the credits allowable by the two countries under paragraph (2) of Article V of the convention. The part thereof allowable by the United States is

$$\frac{10{,}242.50}{21{,}975.00} \times \$10{,}242.50 = \$4{,}774.01$$

The part allowable by Great Britain is

$$\frac{11{,}732.50}{21{,}975.00} \times \$10{,}242.50 = \$5{,}468.49$$

The taxes and credits for both countries are shown in the following summary:

United States

Tax before treaty credits		$81,940.00
Credit under V (1)	$40,970.00	
Credit under V (2)	4,774.01	
Total credits		45,744.01
Net tax payable		36,195.99

Great Britain

Duty before treaty credits		$93,860.00
Credit under V (1)	$30,727.50	
Credit under V (2)	5,468.49	
Total credits		36,195.99
Net duty payable		57,664.01

It may be noted that the total of the taxes payable to the two countries, the sum of $36,195.99 and $57,664.01, equals $93,860, the amount of the tax (before allowance of the treaty credits) of the country which imposes the higher tax.

Example (2). The facts are the same as in example (1) except that the bond certificates were at the time of death located in Canada and under Canadian law deemed situated for succession duty purposes in Canada. The amount of the Canadian succession duty is $2,823.33. The amount of the Federal estate tax attributable to the bonds, as computed without allowance for either the Canadian succession duty credit or the British estate duty credit, is $10,242.50. Since under the convention with Canada credit of $2,823.33 is allowable, the amount of the Federal estate tax attributable to the bonds, as computed with allowance of the Canadian succession duty credit but without allowance of the British estate duty credit, is $10,242.50 less $2,823.33 or $7,419.17. The amount of the British estate duty attributable to the bonds, as computed without allowance for United States estate tax credit, is $11,732.50. Since $7,419.17 is the smaller of the two amounts, such amount is the total of the credits allowable by the United States and Great Britain under paragraph (2) of Article V of the convention. The part thereof allowable by the United States is

$$\frac{7{,}419.17}{19{,}151.67} \times \$7{,}419.17 = \$2{,}874.11$$

The part thereof allowable by Great Britain is

$$\frac{11{,}732.50}{19{,}151.67} \times \$7.419.17 = \$4{,}545.06$$

The taxes and credits for the three countries are shown in the following summary:

Canada

Succession duty payable	$2,823.33

United States

Estate tax before Canadian and British duty credits		$81,940.00
Canadian succession duty credit	$2,823.33	
British estate duty credit under V (1)	40,970.00	
British estate duty credit under V (2)	2,874.11	
Total treaty credits		46,667.44
Estate tax payable		35,272.56

Great Britain

Estate duty before United States estate tax credit		$93,860.00
United States estate tax credit under V (1)	$30,727.50	
United States estate tax credit under V (2)	4,545.06	
Total treaty credits		35,272.56
Estate duty payable		58,587.44

§ 82.108 *Claim for credit or refund and interest on refund.* Credit authorized by § 82.107 and Article V of the convention will be allowed if claimed within six years after the date of the decedent's death, or to the extent of any such credit for tax attributable to a reversionary interest, with respect to which payment of tax is postponed, if claimed prior to six years after such reversionary in-

terest falls into possession. (Article VI (1) of the convention.)

An overpayment of estate tax due to the allowance of the credit or to the application of any other provision of the convention may be refunded except that no refund due to the allowance of credit may be made after the expiration of the applicable period hereinbefore designated for the allowance of credit, and no refund due to the application of any other provision of the convention may be made after six years from the date of the decedent's death, unless before the expiration of such period a claim therefor has been filed, or unless within such period a petition alleging the right to credit or to other relief under the convention has been filed with The Tax Court of the United States. If a timely petition has been filed with The Tax Court of the United States, no refund shall thereafter be made except as provided in section 911 of the Internal Revenue Code.

A claim for refund should set forth under oath each ground upon which the refund is claimed and facts sufficient to apprise the Commisioner of the exact basis thereof. Any claim for refund which does not comply with the requirements of the preceding sentence will not be considered for any purpose as a valid claim for refund. Claim for refund should be made on Form 843 and filed with the Collector of Internal Revenue, although a claim for refund will not be considered defective solely by reason of the fact that it is not made on such form or that it is filed with the Commissioner of Internal Revenue.

Any refund of estate tax due to the application of the provisions of the convention shall be made without interest. (Article VI (2) of the convention.)

§ 82.109 *Information furnished by each contracting country to the other.* The taxation authorities of the contracting countries shall exchange such information available under the taxation laws of the respective countries as is necessary for carrying out the provisions of the convention or for the prevention of fraud or the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of the convention. Information so furnished will be kept secret and not disclosed to any person other than those concerned with the assessment and collection of the taxes which are the subject of the convention. Such information shall not include any trade secret or trade process. (Article VII (1) of the convention.)

The term "taxation authorities" means, for the United States, the Commissioner of Internal Revenue or his authorized representative, for Great Britain, the Commissioners of Inland Revenue or their authorized representative, for Northern Ireland, the Minister of Finance or his authorized representative, and, for any territory to which the convention is extended under Article VIII the competent authority administering the tax to which the convention may be extended. (Article VII (2) of the convention.)

This Treasury decision shall be effective on the 31st day after the date of its publication in the FEDERAL REGISTER.

[SEAL] W. T. SHERWOOD,
Acting Commissioner of Internal Revenue.

Approved: May 27, 1947.

JOSEPH J. O'CONNELL, JR.,
Acting Secretary of the Treasury.

[F. R. Doc. 47-5270; Filed, June 3, 1947; 8:50 a. m.]

TITLE 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice

[Order 3732, Supp. 27]

PART 51—ORGANIZATION AND FUNCTIONS

ESTABLISHMENT OF OFFICE OF ALIEN PROPERTY

Effective June 1, 1947, § 51.81 (11 F. R. 14135) in Subpart F, is amended to read as follows:

§ 51.81 *Establishment of the Office of Alien Property.* In order to effectuate the provisions of Executive Order 9788 of October 14, 1946 (11 F. R. 11981), terminating the Office of Alien Property Custodian and transferring its functions to the Attorney General, *It is hereby ordered as follows:*

(a) There is created in the Department of Justice the Office of Alien Property. All of the authority, rights, privileges, powers, duties, and functions vested in or transferred or delegated to me by the said Executive order are herby placed in the Office of Alien Property.

(b) The Director of the Office of Alien Property shall supervise and direct all of its activities.

(Secs. 3, 12, Pub. Law 404, 79th Cong., 60 Stat. 238, 244; E. O. 9788, Oct. 14, 1946, 11 F. R. 11981)

TOM C. CLARK,
Attorney General.

MAY 29, 1947.

[F. R. Doc. 47-5314; Filed, June 3, 1947; 10:04 a. m.]

TITLE 30—MINERAL RESOURCES

Chapter VIII—Coal Mines Administration, Department of the Interior

[Order CMAN-21]

APPENDIX TO PART 801—OPERATION OF COAL MINES UNDER GOVERNMENT CONTROL

DIRECTION CONCERNING ANNUAL VACATION PERIOD

Section 7 of the Agreement of May 29, 1946, between the Coal Mines Administrator and the United Mine Workers of America recognizes that an annual vacation period shall be the rule of the bituminous coal industry, and provides for vacation pay based on the qualifying period of June 1, 1945, to May 31, 1946, under the terms and conditions set forth therein. Approximately one year has elapsed since the end of the last vacation qualifying period for which payments were made. Previous contracts between the operators and the Union, as well as the Agreement of May 29, 1946, provided for a vacation period of ten days beginning on the last Saturday in June during which time coal production was to cease.

On May 16, 1947, the Coal Mines Administrator, in accordance with section 5 of the War Labor Disputes Act, filed an application with the Secretary of Labor requesting the approval, by a Special Board to be appointed by him pursuant to Executive Order 9809, of a proposal relative to vacation pay for the vacation qualifying period of June 1, 1946, to May 31, 1947, to be made to employees covered by the Agreement of May 29, 1946, at mines in Government possession under authority of Executive Orders 9728 and 9758. Such Special Board approved the changes in terms and conditions of employment relative to vacation pay set forth in said application, and the order of said Board was approved by the President on May 17, 1947.

Now, therefore, pursuant to section 5 of the War Labor Disputes Act and the order of said Board, each Operating Manager for the United States of mines in Government possession under authority of Executive Orders 9728 and 9758 is hereby ordered to make vacation payments for the vacation qualifying period of June 1, 1946, to May 31, 1947, to eligible employees covered by the Agreement of May 29, 1946, in accordance with the following:

The terms and provisions of section 7 of the Agreement of May 29, 1946, relating to vacation payments shall apply in all respects to the vacation qualifying period of June 1, 1946, to May 31, 1947, subject to the following:

a. Vacation payments shall be made on the last pay day occurring in the month of June 1947, but not later than June 27, 1947.

b. The vacation period for 1947 shall begin on June 28, 1947. The authority of the Coal Mines Administrator to operate the bituminous coal mines now in Government possession will expire on June 30, 1947.

c. In the event that a contract is concluded prior to June 27, 1947, between any private operator or operators and the United Mine Workers of America, which provides for or deals with any vacation payment based on the qualifying period of June 1, 1946, to May 31, 1947, this order shall cease to be effective insofar as it affects vacation payments to employees of the mine or mines covered by such contract.

Specific attention is directed to the fact that in applying this order each employee with a record of one year's standing (June 1, 1946, to May 31, 1947) is entitled to receive the sum of $100 as vacation payment, and that pro rata payments for the months they were on the pay roll shall be made to those mine workers who were given employment or left their employment during the qualifying period of June 1, 1946, to May 31, 1947.

This order shall be deemed to be a specific direction or order within the meaning of the Revised Regulations for the Operation of Coal Mines Under Government Control (11 F. R. 7567).

N. H. COLLISSON,
Captain, U. S. N. R.,
Coal Mines Administrator.

MAY 28, 1947.

[F. R. Doc. 47-5246; Filed, June 3, 1947; 8:50 a. m.]

TITLE 35—PANAMA CANAL

Chapter I—Canal Zone Regulations

PART 4—OPERATION AND NAVIGATION OF PANAMA CANAL AND ADJACENT WATERS

INSPECTION AND CONTROL OF VESSELS IN CANAL ZONE WATERS

CROSS REFERENCE: For revocation of Proclamation 2412, which delegated to the Governor of the Panama Canal authority to exercise powers conferred by section 1 of Title II of the Act of June 15, 1917 (40 Stat. 220; 50 U. S. C. 191) with respect to inspection and control of vessels in Canal Zone waters, see Proclamation 2732 under Title 3, *supra*. Regulations issued under the delegated authority appear at 35 CFR, Cum. Supp., 1944 Supp., 1945 Supp., 4.180–4.187.

TITLE 39—POSTAL SERVICE

Chapter I—Post Office Department

Subchapter B—Regulations

PART 16—REGISTRY SYSTEM: INSURANCE AND COLLECT-ON-DELIVERY SERVICES

MISCELLANEOUS AMENDMENTS

In Part 16 (39 CFR) make the following changes:

1. Amend paragraph (f) of § 16.63 to read as follows:

§ 16.63 *Insurance, collect-on-delivery service.* * * *

(f) (1) Postal employees shall inquire as to whether parcels contain matter of a fragile, perishable or inflammable nature, except where patrons mail in quantities and have been instructed by the Postal Service regarding packing and endorsement. If the response is in the negative, and the parcel to all outward appearance is adequately prepared for mailing, no further inquiry as to contents or packing need be made. If the response is in the affirmative, detailed inquiry shall be made as to contents and method of packing so that the accepting employee may ascertain whether the contents are admissible to the mails and are adequately packed for safe transmission. Such parcels shall be indorsed "Fragile," "Perishable," etc.

(2) Any parcel which is not packed in accordance with the Postal laws and regulations or other instructions of the Department or which is not sufficiently prepared to withstand reasonable handling in transit must be refused. Unless there is doubt as to the adequacy of the packing, or as to the actual inclosures, parcels need not be opened and examined.

CROSS REFERENCES: For provisions as to packing of inflammable, fragile, and perishable articles, see §§ 6.13, 6.15 and 6.16. (Sec. 8, 37 Stat. 558, 43 Stat. 652, sec. 211 (c), 43 Stat. 1069, 45 Stat. 1177; 39 U. S. C. 244, 246a)

2. Amend § 16.67 by the addition of paragraphs (h) and (i), reading as follows:

§ 16.67 *Payment of indemnity claims by postmasters.* * * *

(h) (1) When the sender or addressee of a parcel insured at the minimum fee starts a claim therefor at other than the post office of mailing, the procedure outlined in this paragraph shall be followed:

(2) The person filing the claim shall be required to submit Form 3813–B or equivalent evidence of insurance such as the wrapper of the parcel. The postmaster shall certify in a marginal notation on the left side of page 1 of the Form 3812 reading substantially "On _____ (Date), I examined the sender's insurance receipt (Form 3813–B) or the wrapper of the insured parcel described hereon which was mailed at _____ (Post office and State of mailing)." The "Declaration of Postmaster—Mailing Office" on the Form 3812 shall be modified by striking out the words "Mailing Office" and substituting therefor the name of the post office and State where claim is made. The name of the mailing office shall be entered in item 38. Each applicable item in the declaration shall be completed, including, under item 9, the signature of the postmaster and the name of the office at which the claim is filed.

(3) The declaration of the sender or addressee (or both, if they are located at the office where claim is started) shall then be obtained. After the Form 3812 has been properly completed in accordance with existing instructions at the office where the claim is started, it shall be transmitted to the postmaster at the office which is to give the claim further attention. If the Form 3812 is sent by the postmaster at the office where it was started to other than the postmaster at the office where the parcel was mailed, appropriate notice shall be furnished to the mailing office so that record may be made of the claim.

(4) The postmaster at the office finally completing the Form 3812 shall transmit it for adjustment directly to the postmaster at the appropriate central accounting office for the State or section in which the parcel was mailed.

(i) (1) In claims for damage to insured or C. O. D. parcels containing articles of a fragile nature, or damage to (not spoiling of) articles of a perishable nature, the description of packing or wrapping should be in such detail as to enable the Department, or the paying postmaster, to determine whether reasonable care and effort were exercised by the sender to prepare the parcel for mailing as to assure its safe transmission in the mails. Where the container used was made of pasteboard, it should be stated whether it was made of heavy corrugated pasteboard, heavy ordinary pasteboard or merely light pasteboard. Where cushioning material was used, the statement should show in a general way the kind, quantity, and manner in which the cushioning material was used.

(2) Claims for indemnity involving damage to parcels containing articles of a fragile nature, or damage to (not spoiling of) articles of a perishable nature, should not be paid where the packing was inadequate and the sender deliberately or otherwise misrepresented the description of the packing or the contents. (Sec. 8, 37 Stat. 558, 43 Stat. 652, sec. 211 (c), 43 Stat. 1069, sec. 1, 41 Stat. 581; 39 U. S. C. 244, 382)

[SEAL] J. M. DONALDSON,
Acting Postmaster General.

[F. R. Doc. 47-5248; Filed, June 3, 1947; 8:46 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Appendix—Public Land Orders

[Public Land Order 371 [1]]

CALIFORNIA

WITHDRAWING PUBLIC LAND FOR A RADIO REPEATER STATION FOR USE IN COOPERATIVE FOREST PROTECTION

By virtue of the authority vested in the President by the act of June 25, 1910, c. 421, 36 Stat. 847, as amended by the act of August 24, 1912, c. 369, 37 Stat. 497 (U. S. C. title 43, secs. 141–143), and pursuant to Executive Order No. 9337 of April 24, 1943: *It is ordered as follows:*

Subject to valid existing rights and the provisions of existing withdrawals, the following-described public land in California is hereby temporarily withdrawn from settlement, location, sale, or entry, and reserved and set apart under the jurisdiction of the Department of the Interior for use by the State Division of Forestry as a radio repeater station site for Federal and State cooperative forest fire-protection work:

MOUNT DIABLO MERIDIAN

T. 5 S., R. 18 E.,
Sec. 5, lot 4.

The area described contains 17.56 acres.

This order shall take precedence over but not modify the withdrawal for classification and other purposes made by Executive Order No. 6910 of November 26, 1934, as amended, so far as such order affects the above-described land.

C. GIRARD DAVIDSON,
Assistant Secretary of the Interior.

MAY 26, 1947.

[F. R. Doc. 47-5241; Filed, June 3, 1947; 8:48 a. m.]

[Public Land Order 372]

WISCONSIN

WITHDRAWAL OF PUBLIC LANDS FOR USE OF DEPARTMENT OF AGRICULTURE

By virtue of the authority contained in section 1 of the act of June 25, 1910, ch. 421, 36 Stat. 847 (43 U. S. C. 141), and pursuant to Executive Order No.

[1] See F. R. Doc. 47-5242, Department of the Interior, Office of the Secretary, in Notices section, *infra*.

9337 of April 24, 1943; *It is ordered as follows:*

Executive Order No. 6964 of February 5, 1935, as amended, temporarily withdrawing certain lands for classification and other purposes, is hereby revoked so far as it affects the following-described public lands in Wisconsin:

FOURTH PRINCIPAL MERIDIAN

T. 21 N., R. 1 W.,
Sec. 30, E½NW¼.
T. 22 N., R. 1 W.,
Sec. 34, NE¼SE¼.
T. 20 N., R. 2 W.,
Sec. 4, SE¼NW¼;
Sec. 14, NE¼NW¼.
T. 21 N., R. 2 W.,
Sec. 14, W½SW¼.
T. 22 N., R. 2 W.,
Sec. 22, SW¼SW¼;
Sec. 28, SW¼NW¼.
T. 20 N., R. 3 W.,
Sec. 2, SE¼SE¼;
Sec. 8, SE¼SE¼.
T. 21 N., R. 3 W.,
Sec. 4, NE¼NE¼;
Sec. 24, NE¼NE¼;
Sec. 34, NE¼NE¼.

The areas described aggregate 561.09 acres.

Subject to the conditions expressed in the above-mentioned acts and to all valid existing rights, the above described public lands are hereby temporarily withdrawn from settlement, location, sale or entry, and reserved and set apart for use and development by the Department of Agriculture for soil erosion control and other land utilization activities in connection with the Black River Project, LU–WI–6: *Provided*, That nothing herein contained shall restrict prospecting, developing, mining, entering, or leasing the mineral resources of the lands under the applicable laws.

It is intended that the public lands described herein shall be returned to the administration of the Department of the Interior when they are no longer needed for the purpose for which they are reserved.

C. GIRARD DAVIDSON,
Assistant Secretary of the Interior.

MAY 26, 1947.

[F. R. Doc. 47-5243; Filed, June 3, 1947; 8:48 a. m.]

[Public Land Order 373]

ALASKA

REVOKING IN PART PUBLIC LAND ORDER NO. 324 OF AUGUST 14, 1946, WITHDRAWING PUBLIC LANDS FOR CLASSIFICATION AND PROPOSED DESIGNATION AS NATIVE RESERVATIONS FOR INHABITANTS OF VILLAGES OF BARROW AND KLUKWAN, AND VICINITY

By virtue of the authority vested in the President and pursuant to Executive Order No. 9337 of April 24, 1943; *It is ordered as follows:*

Public Land Order No. 324 of August 14, 1946, temporarily withdrawing public lands for the purpose of classification and proposed designation thereof as native reservations for the use and occupancy of the native inhabitants of the native villages of Barrow and vicinity and Klukwan and vicinity, Alaska, is hereby revoked so far as it affects the hereinafter-described public lands in the vicinity of Klukwan.

Effective upon the signing of this order, the jurisdiction over such lands for administrative purposes shall be vested in the Department of the Interior and any other department or agency of the Federal Government, according to their respective interests then of record.

This order shall not otherwise become effective to change the status of the surveyed or unsurveyed public lands until 10:00 a. m. on July 28, 1947. At that time, subject to valid existing rights, including native possessory rights, if any, and the provisions of existing withdrawals, the unsurveyed lands shall become subject to settlement and other forms of appropriation in accordance with the applicable public land laws and regulations, and the surveyed lands shall become subject to settlement, application, petition, location, or selection as follows:

(a) *Ninety-day period for preference-right filings.* For a period of 90 days from July 28, 1947, to October 27, 1947, inclusive, the public lands affected by this order shall be subject to (1) application under the homestead laws, or the small tract act of June 1, 1938 (52 Stat. 609, 43 U. S. C. sec. 682a), as amended, by qualified veterans of World War II, for whose service recognition is granted by the act of September 27, 1944 (58 Stat. 747, 43 U. S. C. secs. 279–283), subject to the requirements of applicable law, and (2) application under any applicable public-land law, based on prior existing valid settlement rights and preference rights conferred by existing laws or equitable claims subject to allowance and confirmation. Application by such veterans shall be subject to claims of the classes described in subdivision (2).

(b) *Twenty-day advance period for simultaneous preference-right filings.* For a period of 20 days from July 8, 1947, to July 28, 1947, inclusive, such veterans and persons claiming preference rights superior to those of such veterans, may present their applications, and all such applications, together with those presented at 10:00 a. m. on July 28, 1947, shall be treated as simultaneously filed.

(c) *Date for non-preference right filings authorized by the public-land laws.* Commencing at 10:00 a. m. on October 27, 1947, any of the lands remaining unappropriated shall become subject to such settlement, application, petition, location, or selection by the public generally as may be authorized by the public-land laws.

(d) *Twenty-day advance period for simultaneous non-preference right filings.* Applications by the general public may be presented during the 20-day period from October 7, 1947, to October 27, 1947, inclusive, and all such applications, together with those presented at 10:00 a. m. on October 27, 1947, shall be treated as simultaneously filed.

Veterans shall accompany their applications with certified copies of their certificates of discharge, or other satisfactory evidence of their military or naval service. Persons asserting preference rights, through settlement or otherwise, and those having equitable claims, shall accompany their applications by duly corroborated affidavits in support thereof, setting forth in detail all facts relevant to their claims.

Applications for these lands, which shall be filed in the District Land Office, Anchorage, Alaska, shall be acted upon in acordance with the regulations contained in § 295.8 of Title 43 of the Code of Federal Regulations (Circular No. 324, May 22, 1914, 43 L. D., 254), to the extent that such regulations are applicable. Applications under the homestead laws shall be governed by the regulations contained in Parts 65 and 66, of Title 43 of the Code of Federal Regulations and applications under the small tract act of June 1, 1938, shall be governed by the regulations contained in Part 257, of that title.

Inquiries concerning these lands shall be addressed to the District Land Office, Anchorage, Alaska.

The lands affected by this order are described as follows:

The tract of land at Klukwan, near the mouth of the Chilkat River, near latitude 50°30′, longitude 136°, that was reserved and set apart for educational purposes by Executive Order of May 4, 1907, containing approximately 0.16 of an acre;

The lands on the left bank of Chilkat River included in Sec. 32, S½ Sec. 33, SW¼ Sec. 34, T. 28 S., R. 56 E.; NW¼ Sec. 5, NE¼ Sec. 6, T. 29 S., R. 57 E., Copper River Base and Meridian, that were reserved for the use of the natives of Alaska residing then or thereafter at the Village of Klukwan by Executive Order No. 1764, of April 21, 1913, as modified by Executive Order No. 3673, of May 15, 1922, containing approximately 800 acres.

The N½ Sec. 33, T. 28 S., R. 56 E., Copper River Base and Meridian, that was reserved for school, health, and other purposes by Secretarial Order of April 27, 1943, issued pursuant to authority contained in the Act of May 31, 1938 (52 Stat. 593), containing 320 acres; and,

The area described as: Beginning at a point on the divide between the stream flowing into Chilkat Lake and the stream flowing into the Takhin River, approximate latitude 135°46′30″ N., approximate longitude 59°17′06″ W. This point is approximately 1¾ miles south from the right bank of the Chilkat River as shown on sheet No. 9, International Boundary between United States and Canada, 1923 Edition. Thence following down right bank of stream to Chilkat Lake; thence along easterly shore of Chilkat Lake and stream to the Salmon River; thence along right bank of Salmon River to the Chilkat River; thence southeasterly along right bank of said river to a point due north of the place of beginning; thence south approximately 1¾ miles to initial point, containing approximately 12,800 acres.

Portions of the areas are subject to withdrawal orders as indicated above.

While some of the lands are agricultural in character, and suitable for gardening, the soil in general is largely scrub and gravel.

C. GIRARD DAVIDSON,
Assistant Secretary of the Interior.

MAY 26, 1947.

[F. R. Doc. 47-5244; Filed, June 3, 1947; 8:48 a. m.]

TITLE 46—SHIPPING

Chapter I—Coast Guard: Inspection and Navigation

[CGFR 47-32]

PART 2—VESSEL INSPECTIONS

PART 3—MERCHANT MARINE PERSONNEL

NAVIGATION AND VESSEL INSPECTION LAWS, AND SHIPMENT AND DISCHARGE OF SEAMEN

By virtue of the authority vested in me by sec. 101, Reorganization Plan No. 3 of 1946 (11 F. R. 7875); Public Law 404, 79th Congress (60 Stat. 238); and, Public Law 27, 80th Congress, approved March 31, 1947, the following amendments to the regulations are prescribed and shall be effective on and after June 1, 1947:

1. Section 2.50–1 is amended to read as follows:

§ 2.50–1 *Waivers*—(a) *Authority for and limitations on issuance.* Compliance with certain of the navigation and vessel inspection laws may be waived by the Commandant under authority of the act of March 31, 1947 (Public Law No. 27, 80th Congress) in cases where such waiver is deemed necessary in the orderly reconversion of the merchant marine from wartime to peacetime operations. By the terms of Public Law No. 27 this authority to grant waivers expires April 1, 1948. Section 2 of Public Law 27 specifically prohibits the issuance of waivers on and after June 1, 1947 which would allow noncompliance with the statutory citizenship requirements governing the employment of licensed officers and crew members and limiting the employment of aliens with the following exception. The Commandant of the Coast Guard may, until April 1, 1948, grant a waiver of the statutory requirements limiting the number of aliens that may be employed in the steward's department of vessels authorized to carry in excess of 12 passengers. These waivers will be for individual vessels as explained in paragraph (b) of this section unless it is found necessary to issue a general waiver.

(b) *Policy.* It is the policy of the Coast Guard, in the current administration of the laws and regulations relating to navigation and vessel inspection, to further the orderly reconversion of the merchant marine from wartime to peacetime operations by simplifying the procedure involved therein, eliminating all causes of delay in the sailing of vessels, and by bringing about a proper balance between the factors of safety at sea and this orderly reconversion. Various orders have been issued since March 1, 1942, for the purpose of carrying out this policy. While it is not the policy of the Coast Guard to countenance wilful violations of the laws and regulations or negligence in meeting the requirements thereof, neither is it contemplated that masters who exercise all reasonable efforts to comply with the requirements in effect be cited for violations on technical grounds.

(c) *Specific individual waivers.* Applications for waivers affecting only one vessel in any one order are made on Coast Guard Form 2633. Application for Waiver Order, and the reverse side of the form is used for granting of the waiver. The application shall state the name of vessel, her employment, the requirements of law or regulations, waiver of which is requested, the reasons why waiver is necessary, and shall be signed by the master, owner, or agent of the vessel, or by the representative of any interested government agency. The waiver order describes the vessel, the requirements of law waived, the conditions to which waiver is subject, and the period of time for which the waiver is effective. Application for individual waivers may be made to Coast Guard District Commanders and their designated representatives in domestic ports and representatives of the Commandant in other than domestic ports at which Coast Guard officers are assigned to duty. Document CGFR–47–30 (12 F. R. 3249), published in the FEDERAL REGISTER for May 20, 1947 is an order of the Commandant outlining the procedures for application and effectuation of individual waivers.

(d) *General waivers.* Applications for waivers having general applicability should be addressed to the Commandant. Only the Commandant is authorized to issue general waivers which affect more than one vessel in one order.

2. Section 3.13–25 is amended to read as follows:

§ 3.13–25 *Crew deficiencies*—(a) *Authority for making crew substitutions.* The order dated May 14, 1947 identified as document CGFR–47–29 (12 F. R. 3248), published in the FEDERAL REGISTER for May 20, 1947 is a conditional waiver of manning requirements which permits masters who cannot obtain the quality of crew required to make substitutions therefor subject to certain restrictions.

(b) *Restrictions on substitutions.* (1) The waiver referred to in paragraph (a) of this section is applicable only to merchant cargo and tank vessels and does not authorize substitutions which would cause the statutory citizenship requirements for licensed officers and certificated crew members to be violated. This general waiver is intended to simplify to the utmost degree consistent with safety the procedure necessary when the required crew complement of a merchant cargo or tank vessel cannot be obtained by every reasonable effort up to the time of signing on. This waiver has the effect of relaxing the complement requirements of R. S. 4463, insofar as the quality of the crew is concerned by permitting substitutions in the filling of complements. Thus, if all the conditions of this waiver are met, a vessel may be navigated with licensed or rated positions occupied by officers or rated men of lower ranks and ratings than the complement calls for, but all positions specified in the complement must be occupied. In other words, while this waiver permits particular positions to be filled by men who do not hold the licenses or certificates contemplated by the complement for such positions, it does not permit a vessel to be navigated with less than the total number of crew members specified in the complement. This waiver has no application to the navigation of a vessel where vacancies in the complement occur after the filling of the complement but during the period for which the full crew has been signed on. That situation continues to be governed by R. S. 4463.

(2) In view of the limitations on the employment of aliens contained in Public Law 27, after June 1, 1947 no alien may serve as a watch officer on United States vessels and the procedure set up by the Coast Guard for approving aliens to serve under waiver as watch officers will become inoperative and all outstanding lists of approved aliens and individual letters of approval will be without force and effect.

(c) *Reports of substitutions.* The report required by the Coast Guard has to be made on Coast Guard Form 729, Crew Deficiency Report, which may be obtained upon request from any Officer in Charge, Marine Inspection. Three copies must be filed, two with the shipping commissioner who signed on the crew, or if the crew was not signed on before shipping commissioner to the nearest Officer in Charge, Marine Inspection, and one copy must be submitted to the Collector of Customs at time application for clearance of vessel is made.

(d) *Crew shortages.* (1) There is no waiver permitting a vessel to be navigated with less than the total number of crew members specified in its complement and this situation is governed by R. S. 4463.

(2) R. S. 4463 outlines the conditions under which a vessel may be navigated in situations where the vessel is deprived of the services of any number of her crew during the period for which the full crew has been signed on. In such cases if the vacancies are filled with replacements of the same grade or a higher rating the vessel may, of course, continue to be navigated just as though no vacancies had occurred. She may be navigated without all positions occupied by such replacements only if such services were lost through desertion or casualty; such services were lost without the consent, fault or collusion of the master, owner or any other person interested in the vessel; the master was unable to obtain replacements of the same grade or of a higher rating to fill the vacant positions; and, it is the judgment of the master that the vessel is sufficiently manned.

(3) For purposes of administration of R. S. 4463, the terms "desertion or casualty" shall be construed by the Coast Guard to include all circumstances beyond the control of the master, owner or any other person interested in the vessel which result in crew vacancies.

(4) No particular form is required by statute to be used in making reports of crew shortages. To reduce paper work and simplify the filing of reports Coast Guard Form 729 may be used. Masters using this form must make appropriate modification thereof to indicate that the report is a shortage report under R. S. 4463, enter thereon the name and license or certificate number of each member of the crew who left the vessel, state the cause of the shortage and the port at which it occurred, certify that no replacements of the same grade or of a higher rating were obtainable and that in his judgment the vessel was sufficiently

manned, and file the same in duplicate with the Coast Guard Officer in Charge, Marine Inspection, within 12 hours of the arrival of the vessel at her destination.

(Pub. Law 27, 80th Cong., sec. 101, Reorg. Plan 3, 11 F. R. 7875)

Dated: May 28, 1947.

MERLIN O'NEILL,
Rear Admiral, U. S. Coast Guard,
Acting Commandant.

[F. R. Doc. 47-5273; Filed, June 3, 1947; 8:54 a. m.]

TITLE 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

Subchapter K—Alaska Wildlife Protection

PART 91—ALASKA GAME REGULATIONS

MISCELLANEOUS AMENDMENTS

1. Section 91.1 (i) is amended to read as follows:

(i) *Open season.* The time during which animals, birds, or game fishes may lawfully be taken. Each period of time prescribed as an open season shall include the first and last days thereof. Whenever the word year is used in the regulations in this part it shall mean the year from July 1 to June 30 of the following year.

2. Section 91.4 is amended to read as follows:

§ 91.4 *Using game as food for dogs or fur animals or as bait.* No person is permitted to feed any game animal, protected game bird, game fish, or part thereof, to a dog or to a fur animal held in captivity, except the waste parts, such as hides, viscera, and bones, or permitted to use any part of any game animal or game bird for bait.

3. Section 91.7 is amended to read as follows:

§ 91.7 *Transportation and possession.* Animals, birds (but not including migratory birds), and game fishes, parts thereof, and articles manufactured therefrom, and the nests and eggs of such birds taken in accordance with the regulations in this part may be possessed within the Territory at any time, by any person, and in any number and kind not limited by § 91.9, and may be transported within and exported out of the Territory by any person at any time, except as follows:

(a) No package containing such animals, birds, game fishes, parts thereof, articles manufactured therefrom, eggs, or nests, shall be possessed or transported unless it has clearly and conspicuously marked on the outside thereof the names and addresses of the consignor and consignee and an accurate and detailed statement of its contents.

(b) No person who is a fur farmer or fur dealer shall possess or transport the skin of any fur animal, or part thereof, unless at the time of such possession or transportation he is licensed to carry on such business.

(c) No skins of beavers, whether taken within or without the Territory, shall be possessed or transported by any person until the same have been sealed with a seal prescribed by the Commission, except that persons taking beavers within the Territory may possess the unsealed skins thereof, during the open season therefor and for 30 days thereafter, and within the same period may transport the same unsealed for the purpose of having them sealed or tagged by a wildlife agent or other officer authorized by the Commission.

(d) No resident shall export from the Territory any game animal or game bird or part thereof, except in accordance with the terms of a resident Export Permit, or Resident Export and Return License issued under the direction of the Executive Officer of the Commission. Such permit or license shall be obtained on payment of the required fee, from any Wildlife Agent or Collector of Customs, and the shipping tag furnished therewith, on which tag the license or permit number of the shipper must be shown, shall be securely attached on the outside of the package by the shipper at point of origin and accompany it to final destination. All persons issuing such licenses or permits shall immediately, after furnishing the shipping tag, forward such license or permit to the Alaska Game Commission, Juneau, Alaska.

(e) No nonresident of the Territory, or alien, except one holding a valid hunting or trapping license shall transport out of the Territory any game animal or game bird, or part thereof, and such licensed nonresident or alien shall be permitted to export during the respective open season not exceeding one deer; one moose; one caribou; one mountain goat; one mountain sheep; two in the aggregate of large brown and grizzly bears, not more than one of which shall have been taken either on the Kodiak-Afognak Island group or east of longitude 138° W. (not on both of said areas); three black bears, not more than two of which shall have been taken east of longitude 138° W.; or not to exceed singly or in the aggregate one day's limit of grouse or ptarmigan; *Provided*, That before a nonresident or alien may transport any big game animals or game birds or parts thereof from the Territory, he shall obtain from any Wildlife Agent or Collector of Customs a shipping tag (for which no additional fee will be charged) authorizing such shipment and such tag, on which the license number of the shipper must be shown, shall be securely attached on the outside of the package by the shipper at point of origin and accompany it to final destination.

(f) No bald eagle, part, nest, or egg thereof may be exported to the United States or any of its territories except under permit authorized by the act of June 8, 1940.

(g) No person shall remove all evidence of sex from the carcass of any deer, moose, or mountain sheep before it has been delivered to a place of ultimate consumption.

(h) Where skins of fur animals or black bear or parts thereof are shipped out of the Territory, the shipper shall, if shipment is by express or freight, first deliver to the transportation agent at the point of shipment, or if by parcel post, to the postmaster at the point of mailing, a statement correctly showing the number and kinds of skins in each shipment and declaring that no illegal skin or unsealed beaver skin is contained therein. Such statement shall accompany the express or freight shipment to the port of clearance, there to be taken up by the Collector of Customs, or, in the case of percel post shipments, by the postmaster at the office where mailed. Where such skins are transported out of the Territory by means other than express, freight, or parcel post, the person transporting them shall make and deliver a like statement to the Collector of Customs at the port of clearance. Such statement will be forwarded to the Commission by collectors and postmasters.

(i) No person may possess any game animal, or part thereof, without a valid hunting or trapping license unless he furnishes upon request of any official authorized to enforce the Alaska Game Law a written statement as to the name, address and license number of the person from whom such animal or part thereof was obtained; *Provided, however*, That within the limits of the applicable portions of § 91.8 the license requirement shall not apply to the possession, by persons other than fur farmers and fur dealers, of manufactured articles, shed antlers, grizzly bear strips, the meat of hares, rabbits, caribou and moose, skins of black bear, hares and rabbits.

4. Section 91.8, first paragraph, is amended to read as follows:

§ 91.8 *Sale of animals, birds and game fishes.* Sales or purchases of the following designated products of animals and birds (but not including migratory birds), and game fishes, but none other, may be made by any person (except fur farmers and fur dealers) without a permit or license, and by fur farmers and fur dealers holding valid fur farm or fur dealers' licenses, whichever the case may be:

5. Section 91.9 is amended to read as follows:

§ 91.9 *Open seasons, methods of taking, and limits on protected animals, birds and game fishes.* The following animals, birds, and game fishes, but none other, may be taken in the open seasons, by the methods and means, in the areas, and in numbers not exceeding the respective daily, seasonal bag, or possession limits prescribed herein, but not at any other time, by any other method, aid or means, nor in any other areas or numbers; *Provided*, That no birds or animals may be taken by shooting from, on, or across, or within thirty-three feet of the center line of any highway:

(a) *Game animals*—(1) *Methods and means.* May be taken only with a shotgun (not larger than No. 10 gage and not capable of holding more than three shells), rifle or pistol using center-fire cartridges only, but not from or by means of a motor vehicle, aircraft, or any boat propelled by any means other than paddles, oars or poles, or while such animals are swimming; except that hares and rabbits may be taken by rifles or pistols

using rim-fire cartridges; *And provided further*, That no aircraft shall be used for the purpose of driving, circling, molesting, spotting, or in aiding in the taking of any big game animal.

(2) *Open seasons and limits.* None of the game animals named below may be taken in any national park, monument, or posted national forest area, nor in the Shoemaker Bay, Haines, Harding Lake and Birch Lake, Curry Game Refuge, Eyak Lake, Mitkof Island, Mount Hayes-Blair Lakes Refuge, Eklutna, Anan Creek and Loring, and highway and railroad areas, described in §§ 91.10 and 91.11, nor in any other areas specifically closed by this section.

(i) Deer, bucks (with horns not less than 3 inches above the top of the skull).

East of longitude 138° W., September 1 to November 15. Limit, by a resident, 2 a season; by a nonresident, 1 a season.

In the drainage to Prince William Sound north of the center of the C. R. & N. W. Railway and west of Mountain Slough, including the islands of Prince William Sound, September 1 to September 30. Limit, 1 a season.

(ii) Moose, bulls (except yearlings and calves).

East of longitude 138° W., September 15 to October 15, except in Chilkoot and Chilkat River areas; west of longitude 141° W., except in Colville River drainage, and Alaska No. 1 or Kenai No. 1 Peninsula areas, September 1 to September 20 and December 1 to December 10, except that there shall be no open season between December 1 and December 10 in the area known as the Palmer area and described as follows:

Beginning at Knik River Bridge and following the Palmer highway to Palmer, then along the Glenn Highway to Moose Creek in the Matanuska Valley; thence upstream along Moose Creek to the Divide and across the divide and downstream along the Kashwitna River to its confluence with the Susitna River; thence downstream along the Susitna River to its confluence with Cook Inlet; thence along the westerly bank of Cook Inlet and Knik Arm to the mouth of Knik River; thence upstream along the Knik River to the Palmer highway bridge or place of beginning. Limit, 1 a year.

(iii) Caribou (except calves).

In the Territory, but not in the area lying 5 miles on either side of the Steese Highway on Twelve Mile Summit between mileposts 84 and 89, and on Eagle Summit between mileposts 102 and 112, August 20 to September 30, and December 1 to 15. Limit, by a resident, 2 a year; by a nonresident, 1 a year.

(iv) Mountain goat (except kids).

In the Territory, but not in the Cooper Landing area, Sheep Mountain area, Eklutna Lake area, Kenai Peninsula area No. 2, nor in the Girdwood area described in § 91.11, (a), (i), (k), (q), and (r), nor on the Baranof and Chichagof Islands, nor in the watersheds of Tracy Arm, Endicott Arm, or Ford's Terror, where there shall be a continuous closed season, September 1 to October 31. Limit, by a resident, 2 a season; by a nonresident, 1 a season.

(v) Mountain sheep, rams only (except lambs).

In the Territory, but not in the Cooper Landing area, Kenai Peninsula areas Nos. 2 and 3, nor in the Girdwood, Sheep Mountain and Eklutna areas described in § 91.11 (a), (i), (j), (k), (q) and (r), August 20 to August 31. Limit, 1 ram a season.

(vi) Bear (large brown and grizzly).

East of longitude 138° W., and in the Kodiak-Afognak Island group, but not in the Thayer Mountain and Pack Creek areas on Admiralty Island as described in § 91.11 (l) and (m), September 1 to June 20. Limit, 1 a year. In the rest of the Territory, September 1 to June 20. Limit, 2 a year.

(vii) Bear (black, including its brown and blue, or glacier bear, color variations).

East of longitude 138° W., including the Mount Hayes-Blair Lakes area described in § 91.11, but excepting the Anan Creek and Loring areas described in § 91.11 (n), September 1 to June 20. Limit, 2 a season. In the rest of the Territory, no closed season. Limit, by a resident, no limit; by a nonresident, 3 a year.

(viii) Any bear may be killed at any time or any place in the Territory when about to attack or molest persons or their property. Persons so killing such animals shall make a written report to the Commission, setting forth the reason for such killing and the time and place.

(ix) Hare and rabbit.

On the Kodiak-Afognak Island group, September 1 to March 31. No closed season in the rest of the Territory. No limit.

(See also §§ 91.7 and 91.8 covering transportation, possession, and sale.)

(b) *Fur animals*—(1) *Methods and means.* May be taken by any means, except by means, aid or use of a set gun, a shotgun, artificial light of any kind, a steel bear trap or other trap with jaws having a spread exceeding 9 inches, poison, a dog (except polar bears in fur district 8, and wolves and coyotes in fur districts 5, 6, 7 and 8), a fish trap or net, or by setting any trap or snare within 25 feet of a beaver home or den or within 100 feet of a fox den, or by destroying or disturbing homes, houses, dens, dams or runways of such animals: *Provided*, That beaver may be taken only by means of a steel trap or snare and by persons over the age of eleven years, and wolves and coyotes may be killed by means of a rifle, shotgun or pistol at any time, by any person permitted to carry firearms.

(2) *Open seasons and limits.* No fur animals, except wolves and coyotes, may be taken in any posted national forest area, nor in the Shoemaker Bay, Haines, Harding Lake, Curry Game Refuge, Eyak Lake, Eklutna, and Mitkof Island areas, described in §§ 91.10 and 91.11; nor may any fur animals be taken on any national park or monument area, which are closed under other laws and regulations.

(i) Mink, land otter, weasel (ermine), fox and lynx (except white fox).

Fur District 1. December 16 to January 15. No limit.

Fur District 2 to 7, inclusive. November 16 to January 31. No limit. White fox, December 1 to March 15. No limit.

Fur District 8. December 1 to March 15. No limit.

(ii) Muskrat.

Fur Districts 1 and 2. April 1 to May 31. No limit.

Fur Districts 3 and 4. March 10 to May 10. No limit.

Fur District 5. North of Unalakleet River drainage, April 1 to June 7; Unalakleet River drainage and south thereof, April 1 to May 31. No limit.

Fur Districts 6 and 7. March 1 to May 31. No limit.

Fur District 8. April 10 to June 10. No limit.

(iii) Beaver.

Fur District 2. February 1 to March 31, except there shall be no open season on a strip one-half mile wide on either side of the Copper River road from Eyak bridge to Mile 27, nor on Kenai Peninsula, south from Turnagain Arm, Portage River drainage and Passage Canal. Limit, 10 a season.

Fur District 3. February 1 to March 31, except on the Kodiak-Afognak Island group. Limit, 10 a season.

Fur Districts 4 and 5. Februrary 1 to March 31. Limit, 10 a season.

Fur District 6. February 1 to March 31, except there shall be no open season within the Clearwater drainage, lying south of the Tanana River and between the Richardson Highway and the Big Gerstle River. Limit, 10 a season.

Fur District 7. February 1 to March 31. Limit, 10 a season.

(iv) Wolf, coyote, wolverine, marmot, squirrel and polar bear.

Fur Districts 1, 2, 3, 4, 5, 6, 7 and 8. No closed season. No limit.

(v) Marten.

Fur Districts 2, 3, 4, 5, 6, and 7. November 16 to January 31. No limit.

(3) During the closed season on fur-bearing animals in the respective fur districts no person shall set, maintain or attend traps for wolves and coyotes without first procuring a permit, issuable at the discretion of the Commission, authorizing him to do so. Application for such permit shall be addressed to the Alaska Game Commission, Juneau, Alaska, and shall contain a statement of the nature and extent and locality of the proposed operations and the species of animals to be taken.

(See also §§ 91.7 and 91.8 covering transportation, possession, and sale.)

(c) *Game birds*—(1) *Methods and means.* Grouse and ptarmigan only may be taken with a shotgun (not larger than No. 10 gage and not capable of holding more than 3 shells), rifle, pistol, bow and arrow, or spear, or with the aid of a dog, but not from or by means of a motor vehicle, aircraft, or any boat propelled by any means other than paddles, oars, or poles. Any other game bird protected also under the provisions of the Migratory Bird Treaty Act of July 3, 1918, as amended, may be taken only in the manner, by the means, and at the times or places permitted by the regulations of the Secretary of the Interior adopted pursuant to the terms of that act.

(2) *Open seasons and limits.* No game bird may be taken at any time in any national park, monument, or posted national forest area, nor in the Shoemaker Bay, Haines, Harding Lake, Curry Game Refuge, Eyak Lake, and Mitkof Island areas described in § 91.10, and in the Anan Creek and Loring, and Eklutna Lake areas described in § 91.11 (n) and (r).

(i) *Grouse and ptarmigan.* There shall be no open season within the closed areas mentioned above.

Fur Districts 1, 2, 3, 4, 5, 6, 7 and 8. August 20 to February 28.

Daily limit. Grouse 10; ptarmigan 10; but not to exceed 10 in the aggregate of all kinds of grouse and ptarmigan a day. Limit for each person shall include all such birds taken by any other person who for hire accompanies or assists in the taking.

(ii) *Game birds protected also under the provisions of the Migratory Bird Treaty Act.* Seasons and limits in accordance with Migratory Bird Treaty Act Regulations.

(See also §§ 91.7 and 91.8 covering transportation, possession, and sale.)

(d) *Nongame birds*—(1) *Methods and means.* May be taken by any means except by the use of poison, *Provided*, Any nongame bird protected under the provisions of the Migratory Bird Treaty Act of July 3, 1918, as amended, may be taken only in the manner, by the means, and at the times or places permitted by the regulations of the Secretary of the Interior adopted pursuant to the terms of that act.

(2) *Open seasons and limits.* No nongame bird may be taken at any time in any national park, monument, or posted national forest area, nor in the Shoemaker Bay, Haines, Harding Lake, Curry Game Refuge, Eyak Lake, or Mitkof Island areas described in § 91.10 and in the Anan Creek and Loring, and Eklutna areas described in § 91.11.

Crows, hawks, owls, eagles, ravens, magpies, and cormorants, and their nests and eggs. No closed seasons except in the areas mentioned above. No limit.

(See also §§ 91.7 and 91.8 covering transportation, possession, and sale.)

(e) *Game fishes*—(1) *Methods and means.* May be taken by angling with a line held in the hand or attached to a rod, or rod and reel so held, but each line shall at no time have attached to it more than two flies or hooks, nor more than one plug, spoon, or spinner, and in the Buskin River and Lakes, Russian River and Lakes, Cooper Creek and Summit Lakes on the Kenai Peninsula, may be taken only by means of artificial flies, spinners, spoons, or plugs. Lake trout and Dolly Varden trout may be taken by the use of net, trap, or seine in the glacial waters of Trail, Kenai, Skilak and Tustumena Lakes on Kenai Peninsula, and in any area where the taking without limit as to numbers and the sale, purchase and shipment from the Territory of Dolly Varden trout are permitted.

(2) *Open seasons and limits. Rainbow, steelhead, cutthroat, eastern brook and Dolly Varden trout, mackinaw or lake trout, and grayling.*

Dewey Lake near Skagway and Salmon Creek Reservoir near Juneau, June 1 to September 30.

East of longitude 138° W., except Dewey Lake near Skagway and Salmon Creek Reservoir near Juneau, no closed season.

West of longitude 138° W., no closed season, except the Buskin River and Lakes near Kodiak, Kenai River and all lakes and tributaries thereof, where the season shall be June 5 to September 30 and except Skilak Lake and lower Kenai River to Moose River where the season shall be July 5 to September 30, *Provided*, That Dolly Varden and lake trout may be taken at any time.

Limits. The Kenai River and all lakes and tributaries thereof, Buskin Lakes and Buskin River, near Kodiak, Lake Creek, Willow Creek and all lakes and tributaries thereof, and in all waters draining into Bristol Bay—10 fishes singly or in the aggregate, but not to exceed 10 pounds and 1 fish daily, 2 daily bag limits in possession.

Rest of Territory. 20 fishes singly or in the aggregate, but not to exceed 15 pounds and 1 fish daily, 2 daily bag limits in possession.

In salt water throughout the Territory and in lakes and streams west of Cook Inlet, including such as are designated above but excepting the Nome and Snake Rivers on Seward Peninsula, there shall be no limit on Dolly Varden trout.

(See also §§ 91.7 and 91.8 covering transportation, possession, and sale.)

6. In § 91.10 *Areas having a continuous closed season on all species of animals and birds except wolves and coyotes* delete paragraph (e) and substitute the following:

(e) *Harding Lake-Birch Lake Area.* No shooting allowed from, on, or within one-half mile of Harding or Salchaket Lake and Birch Lake.

7. In § 91.11 *Areas having continuous closed seasons on certain game and fur animals* delete paragraph (a) and substitute the following:

(a) *Cooper Lake area, Fur District 2.* Beginning at the Forest Service trail from Kensi Lake and running to Cooper Lake and following this trail to its confluence with upper Russian Lake; thence downstream along upper and lower Russian Lakes and Russian River to its confluence with Kenai River, thence north along the National Forest Boundary line to Chickaloon River; thence easterly to Summit Lake on Hope Highway; thence southerly and westerly along the Hope Highway and Quartz Creek Road to Kenai Lake, thence southerly along the west side of Kenai Lake to place of beginning. (Closed to sheep and goats.)

8. Delete paragraphs (i) and (j) of § 91.11 and substitute the following:

(i) *Kenai Peninsula Area No. 2, Fur District 2.* Eastern part of Kenai Peninsula east of the center line of the Alaska Railroad and north of a line from the Town of Seward due east to the Bainbridge Glacier. (Closed to sheep and goats.)

(j) *Kenai Peninsula Area No. 3, Fur District 2.* All of the area south and west of the National Forest Boundary line running from Chickaloon Bay to Resurrection Bay near Seward. (Closed to mountain sheep.)

9. Delete from paragraph (o) of § 91.11 the words "and muskrats".

These amendments shall become effective on July 1, 1947.

(Sec. 9, 57 Stat. 306, Pub. Law 369, 79th Cong.; 48 U. S. C. 198)

J. A. KRUG,
Secretary of the Interior.

MAY 10, 1947.

In accordance with the provisions of Public Law No. 369, 79th Cong., 2d session, these amendments, together with the regulations which they amend, to the extent they relate to fur animals raised in captivity, are hereby approved and issued effective July 1, 1947.

N. E. DODD,
Acting Secretary of Agriculture.

MAY 20, 1947.

[F. R. Doc. 47-5240; Filed, June 3, 1947; 8:47 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR, Part 110]

DESIGNATION OF INTERNATIONAL FALLS MUNICIPAL AIRPORT, INTERNATIONAL FALLS, MINNESOTA, AS A TEMPORARY AIRPORT OF ENTRY FOR ALIENS

NOTICE OF PROPOSED RULE MAKING

MAY 28, 1947.

Pursuant to section 4 of the Administrative Procedure Act (Pub. Law 404, 79th Cong.; 60 Stat. 238), notice is hereby given of the proposed issuance by the Attorney General of the following rule relating to the designation of the International Falls Municipal Airport, International Falls, Minnesota, as a temporary airport of entry for aliens. In accordance with subsection (b) of the said section 4, interested persons may submit to the Commissioner of Immigration and Naturalization, Room 1806, Franklin Trust Building, Philadelphia 2, Pennsylvania, written data, views, or arguments relative to this proposed action. Such representations may not be presented orally in any manner. All relevant material received within twenty days following the day of publication of this notice will be considered.

Section 110.3 (b), Chapter I, Title 8, Code of Federal Regulations is amended by inserting "International Falls, Minn., International Falls Municipal Airport" between "Havre, Mont., Havre-Hill County Airport" and "Laredo, Tex., Laredo Municipal Airport" in the list of temporary airports of entry for aliens.

(Sec. 7 (d), 44 Stat. 572; 49 U. S. C. 177 (d); sec. 1, Reorg. Plan No. V, 3 CFR, Cum. Supp., Ch. IV)

TOM C. CLARK,
Attorney General.

Recommended: May 12, 1947.

T. B. SHOEMAKER,
Acting Commissioner, Immigration and Naturalization.

[F. R. Doc. 47-5256; Filed, June 3, 1947; 8:47 a. m.]

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Ch. IX]

[Docket No. AO-185]

HANDLING OF IRISH POTATOES IN EASTERN SOUTH DAKOTA PRODUCTION AREA

NOTICE OF HEARING WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and in accordance with the applicable rules of practice and procedure governing the formulation of marketing agreements (7 CFR and Supps. 900.1 et seq.; 11 F. R. 7737; 12 F. R. 1159), notice is hereby given of a public hearing to be held in the Community Room of the County Court House at Watertown, South Dakota, beginning at 10:00 a. m., c. s. t., June 19, 1947, with respect to a proposed marketing agreement and order regulating the handling of Irish potatoes grown in the Eastern South Dakota production area and with respect to proposed changes, additions and substituted provisions thereof. The proposed marketing agreement and order and the proposed changes, additions and substituted provisions thereof have not received the approval of the Secretary of Agriculture.

The public hearing is for the purpose of receiving evidence with respect to economic or marketing conditions which relate to the provisions of the proposed marketing agreement and order, to the provisions of the proposed changes, additions and substituted provisions thereof, or to any modifications of said proposals, which are hereinafter set forth.

The South Dakota Potato Growers Association has proposed the following marketing agreement and order:

SECTION 1. *Definitions.* As used herein, the following terms have the indicated meaning:

(a) "Secretary" means the Secretary of Agriculture of the United States or any other officer or member of the United States Department of Agriculture, who is or may hereafter be authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

(b) "Act" means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937 (50 Stat. 246 (1937)), 7 U. S. C. 601 et. seq., (Supp't. 5, 1939), as amended.

(c) "Persons" means an individual, partnership, corporation, association, legal representative, or any organized group or business unit of individuals.

(d) "North Eastern South Dakota" means the counties of Codington, Clark, Hamlin, Deuel, Brown, Day and Kingsbury in the State of South Dakota.

(e) "Potatoes" means all varieties of Irish Potatoes grown in North Eastern South Dakota.

(f) "Handler" is synonomous with Shipper and means any person (except a common carrier of potatoes owned by another person) who ships potatoes in fresh form, whether of his own production or other.

(g) "Ship" means to transport, sell, or in any other manner place potatoes in the current of commerce between North Eastern South Dakota and any point outside thereof.

(h) "Producer" means any person engaged in the production of potatoes for market.

(i) "Fiscal year" means the period beginning on July 1 of each year and ending June 30 of the following year.

(j) "Committee" means the North Eastern South Dakota Potato Committee established pursuant to section 2 hereof.

(k) "Varieties" means and includes all classifications or subdivisions of Irish Potatoes according to those definite characteristics now or hereafter recognized by the United States Department of Agriculture or the American Horticultural Society.

(l) "Seed Potatoes" means and includes all potatoes officially certified and tagged, marked, or otherwise appropriately identified, by the Seed Department of the State of South Dakota.

SEC. 2. *Administrative body*—(a) *Establishment and membership.* A North Eastern South Dakota Potato Committee, consisting of seven producer members is hereby established. For each member of the committee, there shall be an alternate member, who shall have the same qualifications as the member.

(b) *Term of office.* The initial members and alternate members shall hold office beginning on the date designated by the Secretary and ending June 30 following, or until their successors are selected and have qualified. Thereafter the term of office of the members and alternate members shall begin on the first day of July and continue for one year or until their successors are selected and have qualified.

(c) *Nominations.* (1) The time, method and manner of nominating members and alternate members of the committee shall be prescribed by the Secretary.

(2) Producers in Codington County and Deuel County shall nominate not less than four candidates for two members and four candidates for two alternate members of the committee.

(3) Producers in Clark County shall nominate not less than six candidates for three members and six candidates for three alternate members of the committee.

(4) Producers in Hamlin County and Kingsbury County shall nominate not less than two candidates for a member and two candidates for an alternate member of the committee.

(5) Producers in Brown County and Day County shall nominate not less than two candidates for a member and two candidates for an alternate member of the committee.

(6) When voting for nominees, each producer shall be entitled to cast one vote which shall be cast on behalf of himself, his agents, subsidiaries, affiliates, and representatives.

(7) Nominations for the initial members and alternate members of the committee may be made prior to, and, in any event, shall be submitted to the Secretary not later than fifteen days after the effective date hereof. Nominations for successors to the initial members and alternate members of the committee shall be submitted to the Secretary not later than fifteen days preceding the date of expiration of the terms of the members and alternate members.

(d) *Selection.* (1) From the nominations submitted pursuant to paragraph (c) (2) of this section, the Secretary shall select two members and two alternate members of the committee. From the nominations submitted pursuant to paragraph (c) (3) of this section, the Secretary shall select three members and three alternate members of the committee. From the nominations submitted pursuant to paragraph (c) (4) of this section, the Secretary shall select one member and one alternate member of the committee. From the nominations submitted pursuant to paragraph (c) (5) of this section, the Secretary shall select one member and one alternate member of the committee.

(e) *Failure to nominate.* If nominations are not made within the time and in the manner specified by the Secretary pursuant to paragraph (c) (1) of this section, the Secretary may, without regard to nominations, select the members and alternate members of the committee, which selection shall be on the basis of the representation provided for herein.

(f) *Acceptance.* Any person selected by the Secretary as a member or as an alternate member of the committee shall qualify by filing a written acceptance with the Secretary within ten days after being notified of such selection.

(g) *Vacancies.* To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate member of the committee to qualify, or in the event of the death, removal, resignation, or disqualification of any qualified member or alternate member, a successor for his unexpired term shall be selected by the Secretary from nominations made in the manner specified in this section. If the names of nominees to fill any such vacancy are not made available to the Secretary within fifteen days after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations, which selection shall be made on the basis of the representation provided for herein.

(h) *Alternate members.* An alternate member of the committee shall act in the place and stead of the member for whom he is alternate during such member's absence. In the event of death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor of such member is selected and has qualified.

(i) *Procedure.* (1) Four members of the committee shall constitute a quorum, and any action of the committee shall require four concurring votes.

(2) The committee may provide for meeting by telephone, telegraph, or other means of communication, and any vote cast at such a meeting shall be confirmed promptly in writing: *Provided,*

That if an assembled meeting is held all votes shall be cast in person.

(j) *Expenses and compensation.* The members of the committee and their respective alternates when acting as members, may be reimbursed for expenses necessarily incurred by them in performance of their duties and in the exercise of their powers hereunder, and shall receive compensation at a rate to be determined by the committee, which rate shall not exceed $3.00 for each day or portion thereof, spent in attendance at meetings of the committee.

(k) *Powers.* The committee shall have the following powers:

(1) To administer the provisions hereof in accordance with its terms.

(2) To make rules and regulations to effectuate the terms and provisions hereof.

(3) To receive, investigate, and report to the Secretary complaints of violations of the provisions hereof.

(4) To recommend to the Secretary amendments hereto.

(l) *Duties.* It shall be the duty of the committee:

(1) To act as intermediary between the Secretary and any producer or handler.

(2) To keep minutes, books and records which clearly reflect all of the acts and transactions of the committee and such minutes, books and records shall be subject to examination at any time by the Secretary.

(3) To investigate the growing, shipping and marketing conditions with respect to potatoes and to assemble data in connection therewith.

(4) To furnish to the Secretary such available information as he may request.

(5) To select a chairman and such other officers as may be necessary, and to adopt such rules and regulations for conduct of its business as it may deem advisable.

(6) At the beginning of each fiscal year, to submit to the Secretary a budget of its expenses for such fiscal year, together with a report thereon.

(7) To cause the books of the committee to be audited by a competent accountant at least once each fiscal year, and at such other time as the committee may deem necessary or as the Secretary may request. The report of such audit shall show the receipt and expenditure of funds collected pursuant hereto, and a copy of each such report shall be furnished to the Secretary.

(8) To appoint such employees, agents, and representatives as it may deem necessary, and to determine the salaries and define the duties of each such person.

(9) To confer with other Marketing Agreement and Order committees in other States and areas.

(m) *Obligations.* Upon the removal or expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds, together with all books and records, in his possession, to his successor in office and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor full title to all of the property, funds, and claims vested in such member pursuant hereto.

SEC. 3. *Expenses and assessments*—(a) *Expenses.* The committee is authorized to incur such expenses as the Secretary finds may be necessary to carry out the functions of the committee pursuant to the provisions hereof during each fiscal year. The funds to cover such expenses shall be acquired by levying assessments as hereinafter provided.

(b) *Assessment.* (1) Each handler who first handles potatoes, shall, with respect to the potatoes so handled by him, pay to the committee, upon demand, such handler's pro rata share of the expenses which the Secretary finds will be necessarily incurred by the committee for its maintenance and functioning during each fiscal year. Such handler's pro rata share of such expenses shall be equal to the ratio between the total quantity of potatoes handled by him as the first handler thereof, during the applicable fiscal year, and the total quantity of potatoes handled by all handlers, as the first handlers thereof, during the same fiscal year. The Secretary shall fix the rate of assessment to be paid by such handlers.

(2) At any time during or after a fiscal year, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expense of the committee. Such increase shall be applicable to all potatoes handled during the given fiscal year. In order to provide funds to carry out the functions of the committee, handlers may make advance payment of assessments.

(c) *Accounting.* (1) If, at the end of a fiscal year, it shall appear that assessments collected are in excess of expenses incurred, each handler entitled to a proportionate refund of the excess assessments shall be credited with such refund against the operations of the following fiscal year, unless he demands payment thereof, in which event such sum shall be paid to him.

(2) The committee may, with the approval of the Secretary, maintain in its own name, or in the name of its members, a suit against any handler for the collection of such handler's pro rata share of the expenses of the committee.

SEC. 4. *Regulation*—(a) *Marketing policy.* At the beginning of each fiscal year, the committee shall prepare and submit to the Secretary a report setting forth its proposed policy for the marketing of potatoes during such fiscal year. In the event it becomes advisable to deviate from such marketing policy, because of changed demand and supply conditions, the committee shall formulate a new marketing policy and shall submit a report thereon to the Secretary. The committee shall notify producers and handlers of the contents of such reports.

(b) *Recommendations for regulations.* (1) It shall be the duty of the committee to investigate the supply and demand conditions for grade, size and quality of potatoes of all varieties. Whenever the committee finds that such conditions make it advisable to regulate the shipment of particular grade, size and quality of potatoes of any or all varieties during any period, it shall recommend to the Secretary the particular grade, size and quality of any or all varieties thereof deemed advisable to be shipped during such period.

(2) In determining the grade, size and quality of potatoes of all varieties deemed advisable to be regulated in view of the prospective demand therefor, the committee shall give due consideration to the following factors: (i) Market prices, including prices by grade, size and quality of potatoes of all varieties for which regulation is recommended; (ii) potatoes on hand in the market areas as manifested by supplies enroute and on track at the principal markets; (iii) available supply, quality, and condition of potatoes in Eastern South Dakota; (iv) supplies from competitive areas and regions producing potatoes; (v) the trend and level of consumer income, and (vi) other relevant factors.

(c) *Issuance of regulations.* Whenever the Secretary shall find, from the recommendations and information submitted by the committee, and from other available information, that to limit the shipment of potatoes to particular grade, size and quality of any or all varieties thereof would tend to effectuate the declared policy of the act, he shall so limit the shipments of potatoes during a specified period. Any specific regulation may be made applicable to any variety or varieties of potatoes. The Secretary shall notify the committee of any such regulation and the committee shall give reasonable notice thereof to handlers.

(d) *Inspection and certification.* During any period in which the Secretary has regulated the shipment of potatoes pursuant to this section, each handler shall, prior to making each shipment of potatoes, cause each shipment to be inspected by an authorized representative of the Federal-State Inspection Service. Promptly thereafter, each handler shall submit to the committee a copy of the inspection certificate issued thereon.

(e) *Exemptions.* (1) The committee shall adopt and announce the procedural rules pursuant to which certificates of exemption will be issued to producers.

(2) The committee shall issue certificates of exemption to any producer who furnishes adequate evidence to the said committee that by reason of a regulation issued pursuant to this section he will be prevented from having as large a proportion of patatoes shipped during the remainder of the shipping season, as the average of all producers. Such certificates of exemption shall permit such producer to have as large a proportion of his potatoes shipped as the average of all producers.

(3) If any producer is dissatisfied with the certificate of exemption granted to him pursuant to an application, said producer may file an appeal with the committee. Such an appeal must be taken promptly after the issuance of the certificate of exemption from which the appeal is taken. Any producer filing an appeal shall furnish evidence satisfactory to the

committee, for a determination on the appeal. The committee shall thereupon reconsider the application, examine all available evidence, and make a final determination concerning the certificate of exemption to be granted. The committee shall notify the appellant of the final determination and shall furnish the Secretary with a copy of the appeal and a statement of considerations involved in making the final determination.

(4) The Secretary shall have the right to modify, change, alter, or rescind any procedural rules and any exemptions granted pursuant to this section.

SEC. 5. *Regulation of surplus*—(a) *Recommendation.* It shall be the duty of the committee to investigate supply and demand conditions of potatoes. Whenever the committee finds that a surplus of potatoes exists, it shall determine the extent of such surplus of potatoes or of any grade, size or quality thereof. If it is deemed advisable, the committee shall recommend the control and disposition of surplus potatoes and for equalizing the burden of surplus elimination or control among the producers and handlers thereof under uniform rules established by the committee and approved by the Secretary.

(b) *Issuance of regulations.* (1) Whenever the Secretary finds from the recommendations and information submitted by the Committee, or from other available information, that the control and disposition of surplus potatoes will tend to effectuate the declared policy of the act, he shall control and dispose of such surplus potatoes and shall further provide for equalizing the burden of such surplus elimination or control among producers and handlers thereof.

(2) At any time during which the Secretary provides for the control and disposition of surplus potatoes, the committee is authorized to enter into contracts or agreements with any person, agency, or organization, for the purpose of facilitating the disposal of surplus potatoes. The Secretary may designate the committee as an agency to assist in and to effectuate the elimination or control of surplus potatoes under any governmental program.

SEC. 6. *Potatoes not subject to regulation.* Nothing contained herein shall authorize any limitation of the shipment of potatoes for any of the following purposes: (a) potatoes certified as seed potatoes by the Seed Department of the State of South Dakota, when such potatoes are shipped for seed purposes in containers bearing the official South Dakota Seed Potato tag; (b) potatoes shipped for consumption by charitable institutions or for distribution by relief agencies, and (c) potatoes shipped for manufacturing or conversion into by-products. The Secretary may, on the basis of the recommendations of the committee or other available information, determine that potatoes shipped for livestock feed or for other specified purposes shall also be exempt from the provisions hereof. The Secretary shall give adequate notice to the committee of any determination made pursuant to this section. The committee may prescribe adequate safeguards to prevent potatoes shipped for the purposes stated above from entering commercial channels of trade contrary to the provisions hereof.

SEC. 7. *Reports.* Upon the request of the committee, every handler shall furnish to the committee, in such manner and at such time as may be prescribed, such information as will enable the committee to exercise its powers and perform its duties hereunder. The Secretary shall have the right to modify, change, or rescind any reports requested pursuant to this section.

SEC. 8. *Compliance.* Except as provided herein, no handler shall ship potatoes, the shipment of which has been prohibited by the Secretary in accordance with provisions hereof, and no handler shall ship potatoes except in conformity to the provisions hereof.

SEC. 9. *Right of the Secretary.* The members of the committee (including successors and alternates), and any agent or employee appointed or employed by the committee, shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the said committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

SEC. 10. *Effective time and termination*—(a) *Effective time.* The provisions hereof shall become effective at such time as the Secretary may declare above his signature attached hereto, and shall continue in force until terminated in one of the ways hereinafter specified.

(b) *Termination.* (1) The Secretary may, at any time, terminate the provisions hereof by giving at least one day's notice by means of a press release or in any other manner which he may determine.

(2) The Secretary may terminate or suspend the operations of any or all of the provisions hereof whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(3) The Secretary shall terminate the provisions hereof at the end of any fiscal year whenever he finds that such termination is favored by a majority of producers who, during the preceding fiscal year, have been engaged in the production for market of potatoes; *Provided*, That such majority has, during such year, produced for market more than fifty percent of the volume of such potatoes produced for market; but such termination shall be effected only if announced on or before June 30 of the then current fiscal year.

(4) The Secretary shall terminate the provisions hereof at the end of any fiscal year, upon the written request of handlers signatory hereto who submit evidence satisfactory to the Secretary that they handled not less than sixty-seven percent of the total volume of potatoes handled by the signatory handlers during the preceding fiscal year; but such termination shall be effective only if announced on or before June 30 of the then current fiscal year.[1]

(5) The provisions hereof shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

(c) *Proceedings after termination.* (1) Upon the termination of the provisions hereof, the then functioning members of the committee shall continue as trustees, for the purpose of liquidating the affairs of the committee, of all funds and the property then in the possession of, or under control of the committee, including claims for any funds unpaid, or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(2) The said trustees shall continue in such capacity until discharged by the Secretary; shall, from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such person as the Secretary may direct; and shall, upon request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant hereto.

(3) Any person to whom funds, property, or claims have been transferred, or delivered by the committee or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of the committee and upon the said trustees.

SEC. 11. *Effect of termination or amendment.* Unless otherwise expressly provided by the Secretary, the termination hereof, or of any regulation issued pursuant hereto, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen, or which may thereafter arise in connection with any provision hereof, or any regulation issued hereunder, or (b) release or extinguish any violation hereof, or of any regulation issued hereunder, or (c) affect or impair any rights or remedies of the Secretary, or of any other person with respect to any such violation.

SEC. 12. *Duration of immunities.* The benefits, privileges, and immunities conferred upon any person by virtue hereof shall cease upon the termination hereof, except with respect to acts done under and during the existence hereof.

SEC. 13. *Agents.* The Secretary may, by designation in writing, name any person, including any officer or employee of the Government, or name any bureau or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions hereof.

SEC. 14. *Derogation.* Nothing contained herein is, or shall be construed to be in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by

[1] Applicable only to the proposed marketing agreement.

the act or otherwise, or in accordance with such powers, to act in the premises whenever such action is deemed advisable.

SEC. 15. *Personal liability.* No member or alternate of the committee, nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any handler or to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, or employee, except for acts of dishonesty.

SEC. 16. *Separability.* If any provision hereof is declared invalid, or the applicability thereof to any persons, circumstances, or thing is held invalid, the validity of the remainder hereof, or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

SEC. 17. *Amendments.* Amendments hereto may be proposed from time to time, by the committee or by the Secretary.

SEC. 18.[2] *Counterparts.* This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original.

SEC. 19. *Order with marketing agreement.* Each signatory handler favors and approves the issuance of an order, by the Secretary, regulating the handling of potatoes in the same manner as is provided for in this agreement; and each signatory handler hereby requests the Secretary to issue, pursuant to the act, such an order.

The Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, Washington, D. C., has proposed the following changes, additions and substitutions in, to and for provisions of the proposed marketing agreement and order:

1. Change subsection 1 (d) to read as follows:

(d) "Production area" means and includes all of the counties in the State of South Dakota east of the Missouri River.

2. Change sections 2 (h), (i), (j), (k) and (l) to sections 2 (j), (k), (l), (m) and (n), respectively, and substitute the following provisions for sections 2 (a), (b), (c), (d), (e), (f), (g) and (m):

SEC. 2. *Administrative body*—(a) *Establishment and membership.* A South Dakota Potato Committee, consisting of eight producer members, is hereby established. For each member of the committee, there shall be an alternate member, who shall have the same qualifications as the member.

(b) *Initial committee.* The initial members and alternates of the committee shall be selected by the Secretary for a term of office ending on June 30, 1948, and until their successors are selected and qualified. Such members and alternates may be selected by the Secretary from lists of nominees supplied by producer groups or associations operating in and representative of producers in the production area.

(c) *Term of office.* The term of office of members and alternates of the Committee, except as indicated in paragraph (b) of this section, shall begin on the first day of July and continue until the end of the then current fiscal year and until their successors are selected and have qualified; provided, that members and alternates selected as successors to members and alternates serving for more than one year on one designation of the Secretary, shall hold office from the date of qualification to June 30 and until their successors are selected and have qualified.

(d) *Nominations.* Except for initial members and alternates of the committee, nominations for membership may be determined by:

(1) *Assembled meetings.* Elections may be conducted in assembled meetings of producers in each district to determine nominees for such district. Such election shall be conducted under the supervision of a chairman and a secretary designated by the committee in accordance with the provisions of Roberts' Rules of Order; or

(2) *Mail voting.* Election of nominees may be effected by the producers of each district by written ballot forwarded or presented to the teller designated by the committee. Each ballot form shall have printed thereon the date on which such ballot must be in the hands of the teller to be counted and ballots received after such date shall not be counted. Such forms shall also contain space for the incorporation of the voter's name and address thereon, together with a printed requirement that such information must be inserted in the space provided therefor. The notice of election attached to such ballot form may contain a list or lists of candidates sponsored for election by a group or groups of producers. The committee shall determine the most desirable and convenient method, aforesaid, of electing nominees for each district, thereafter appointing indicated officials to conduct such elections. Such committee determinations shall be conveyed to interested producers by means of newspaper stories, mail, or such other means of communication deemed adequate by the committee. Nominees shall be elected on forms provided by the committee by June 10th of each year and lists certified by appropriate election officials (either chairman and secretary or teller, depending on the method of election) shall be forwarded via the committee to the Secretary by June 15th of each year.

(e) *Voting.* Each producer shall be eligible to cast one vote for each of the designated number of nominees in the district in which he qualifies as such producer, which vote can not be cumulated for any one nominee. A producer qualifying thereas in more than one district shall elect the district in which he chooses to exercise his voting rights.

(f) *Districts.* The production area is divided into five districts, identified, described and with nominee representation as follows:

District No., Description and Nominees

1—Codington and Deuel Counties:
4 for members.
4 for alternates.
2—Clark County:
6 for members.
6 for alternates.
3—Hamlin and Kingsbury Counties:
2 for members.
2 for alternates.
4—Brown and Day Counties:
2 for members.
2 for alternates.
5—All South Dakota counties east of the Missouri River, except seven counties hereinbefore named:
2 for members.
2 for alternates.

(g) *Selection and qualification of nominees.* Except for the initial committee, the Secretary shall select two members and two alternates from nominees submitted from District No. 1, three members and three alternates from the nominees submitted by District No. 2, and one member and one alternate from the nominees submitted by each of the remaining Districts. If nominations are not supplied to the Secretary within the time and in the manner specified in paragraph (d) of this section, the Secretary may, without regard to nominations, select the members and alternates of the committee, which selection shall be on the basis of the representation provided herein. Any person selected by the Secretary as a member or as an alternate member of the committee shall qualify by filing a written acceptance with the Secretary within ten days after being notified of such selection.

(h) *Vacancies.* To fill any vacancy occasioned by the failure of any person selected as a member or alternate member of the committee to qualify, or in the event of the death, removal, resignation, or disqualification of any qualified member or alternate member, a successor for his unexpired term may be selected by the Secretary. Such selections, if made, shall be on the basis of substitute representation for the producers of the District involved.

(i) *Obligations.* Upon the removal or expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds, together with all books and records, in his possession, to his successor in office or to a trustee designated by the Secretary and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor or trustee full title to all of the property, funds, and claims vested in such member pursuant hereto: *Provided,* That the provisions hereof shall apply to alternate members in possession of funds, property, books or records, or participating in the receipt or disbursement of funds.

3. After the third word in section 4 (e) (1) add the following: "subject to the approval of the Secretary."

4. Add subsection 4 (e) (5) as follows:

[2] Applicable only to the proposed marketing agreement.

(5) Records shall be maintained by the committee and a weekly report furnished to the Secretary showing the applications for exemptions received, exemptions granted, exemptions denied, and shipments made under exemptions.

5. Delete that portion of the first sentence of section 6 after the word "purposes:," reading as follows: "(a) Potatoes certified as seed potatoes by the Seed Department of the State of South Dakota, when such potatoes are shipped for seed purposes in containers bearing the official South Dakota Seed Potato tag;" and renumber subsections (b) and (c) of section 6 to subsections (a) and (b).

The Fruit and Vegetable Branch, Production and Marketing Administration, further proposed that consideration be given to such other changes in the proposed marketing agreement and order as may be necessary to make such marketing agreement and order conform to the provisions of the substitutions, additions and changes proposed by it.

Copies of this notice of hearing may be procured from the Hearing Clerk, United States Department of Agriculture, Room 0306, South Building, Washington 25, D. C., or may be there inspected.

[SEAL] E. A. MEYER,
Assistant Administrator.

MAY 29, 1947.

[F. R. Doc. 47-5280; Filed, June 3, 1947; 8:51 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Office of the Secretary

CALIFORNIA

NOTICE FOR FILING OBJECTIONS TO PUBLIC LAND ORDER WITHDRAWING PUBLIC LAND FOR A RADIO REPEATER STATION FOR USE IN COOPERATIVE FOREST PROTECTION

Notice is hereby given that for a period of 30 days from the date of publication of this notice, persons having cause to object to the terms of Public Land Order 371 [1] of May 26, 1947, withdrawing lot 4 sec. 5, T. 5 S., R. 18 E., M. D. M., California, under the jurisdiction of the Department of the Interior for use by the State Division of Forestry as a radio repeater station site for Federal and State cooperative forest fire-protection work, may present their objections to the Secretary of the Interior. Such objections should be in writing, should be addressed to the Secretary of the Interior, and should be filed in duplicate in the Department of the Interior, Washington 25, D. C.

In case any objection is filed and the nature of the opposition is such as to warrant it, a public hearing will be held at a convenient time and place, which will be announced, where opponents to the order may state their views and where the proponents of the order can explain its purpose, intent, and extent. Whether or not a hearing is held, notice of the determination by the Secretary as to whether the order should be rescinded, modified, or let stand will be given to all interested parties and the general public.

C. GIRARD DAVIDSON,
Assistant Secretary of the Interior.

MAY 26, 1947.

[F. R. Doc. 47-5242; Filed, June 3, 1947; 8:48 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

PROPOSED CHANGES IN FM ALLOCATION PLAN

DEFERRING OF DECISION IN CERTAIN FM HEARING CASES

APRIL 15, 1947.

On April 10, 1947, the Commission instituted a proceeding in Docket No. 6768 looking toward a modification of its FM rules and standards and of its Tentative Allocation Plan for Class B FM Stations. The proposed changes, if finally adopted would have the effect of increasing the number of Class B FM channels available for assignment in certain communities, including Cleveland-Akron, Ohio; Dayton-Springfield, Ohio; Indianapolis, Indiana; Providence, Rhode Island; Atlanta, Georgia; Mansfield, Ohio; Baltimore, Maryland; San Diego, California; and Springfield, Massachusetts.

Hearings have been held upon applications for Class B FM channels in the foregoing cities, and in each proceeding, there have been more applicants than channels available under the Allocation Plan in its present form. Adoption of the proposed modification would provide enough channels so that in all but two of the cases now pending, grants could be made to all of the applicants if they are found to be qualified. In the two remaining cases, involving applicants for Class B FM channels in Cleveland-Akron, Ohio, and in Baltimore, Maryland, the proposed change in the Allocation Plan would permit a grant to at least one more qualified applicant than would be possible under the Allocation Plan in its present form.

In view of these circumstances, the Commission will defer further action in the cases on which hearings have been held for Class B FM channels in the foregoing cities, pending final disposition of the proceedings in Docket No. 6768. It will then dispose of the hearing cases in the light of the changes which will be made in the Tentative Allocation Plan for Class B FM Stations, thus affording the applicants involved in these hearing cases a greater opportunity to obtain grants than exists at present.

The changes proposed in the FM Allocation Plan would not provide additional channels for Boston, Massachusetts; Bridgeport, Connecticut; Philadelphia, Pennsylvania; or Los Angeles, California. Accordingly, decision in the hearing cases involving applications for channels in these cities will not be affected by such proposed change.

[SEAL] FEDERAL COMMUNICATIONS COMMISSION,
T. J. SLOWIE,
Secretary.

[F. R. Doc. 47-5267; Filed, June 3, 1947; 8:50 a. m.]

[Docket Nos. 7987, 8057]

PRESS WIRELESS, INC.

ORDER CONTINUING HEARING

In re applications of Press Wireless, Inc., for modification of licenses to permit the handling of deferred commercial messages, Docket No. 8057, file Nos. 6514-MLHT-B, 6515-MLHT-B; in re applications of Press Wireless, Inc., for modification of licenses to permit the handling of administrative press messages, Docket No. 7987, File Nos. 10367-MLHT-B, 10368-MLHT-B.

The Commission, having under consideration a motion filed on May 21, 1947 by Press Wireless, Inc., requesting a continuance of the hearing herein now set for May 27, 1947; and having been informally advised by all the parties herein that they have no objection to a continuance;

It is ordered, This 23d day of May 1947, that the hearing herein is continued to June 30, 1947.

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 47-5268; Filed, June 3, 1947; 8:48 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-803]

HOPE NATURAL GAS CO.

NOTICE OF APPLICATION

MAY 27, 1947.

Notice is hereby given that on May 15, 1947, Hope Natural Gas Company (applicant), a West Virginia corporation having its principal place of business at Clarksburg, West Virginia, filed an amended application with the Federal Power Commission for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, to authorize applicant to construct and operate certain natural gas facilities subject to the jurisdiction of the Federal Power Commission, the description of which differs from that in the original application filed on October 29, 1946. The reason for the change of facilities, as stated in the amended application, is: "Hope has recently again modified its proposed plans, and in view of these several changes * * * re-

[1] See P. L. O. 371, Title 43, Chapter I, *supra.*

state, in the entirety, the proposed facilities and service * * *" as follows:

(a) *Additions to Cornwell Compressor Station.* Four 1,000 horsepower gas engine-driven compressor units, together with auxiliary equipment and buildings.

(b) *Loop Line for H–192.* 31 miles of 16-inch loop line paralleling the existing 12-inch high-pressure line No. H–192. This additional loop will commence at a point in Gilmer County, West Virginia, approximately 47 miles north of Cornwell Compressor Station, and will extend parallel with existing line H–192 to a point in Doddridge County, West Virginia, approximately 16 miles south of Hastings Compressor Station. This loop line will be known as Line No. TL–264.

(c) *Booster Station (to be known as "Middle Island Station").* A Booster Station, to be known as "Middle Island Station," aggregating 6,000 horsepower, to be installed at a point in Doddridge County, West Virginia, on Lines H–192 and TL–264, including auxiliary equipment and buildings. This location will be approximately 63 miles north of Cornwell Compressor Station and 21½ miles south of Hastings Station. This new station will pump gas through lines H–192 and TL–264 to Hastings Station.

The application states that the facilities, proposed to be constructed in 1947, will constitute additions to Applicant's existing natural gas system in the State of West Virginia, and are to be constructed and operated to enable applicant to increase to 165,000 MCF per day the quantities of natural gas which it will purchase from Tennessee Gas and Transmission Company commencing during the year 1947. Hope is at present receiving approximately 115,000 MCF per day.

The application states further that under a supplemental agreement dated October 7, 1946, to the existing contract between applicant and Tennessee Gas and Transmission Company, Tennessee Gas and Transmission Company, Rate Schedule EPC No. 1 as supplemented, the volume of gas to be delivered by Tennessee Gas and Transmission Company to Applicant will be increased from 115,000,000 to 165,000,000 cubic feet per day, the additional volume to be delivered in increasing quantities during the years 1947 and 1948. Applicant states that the additional volume of natural gas is required to meet continuing increases in the requirements of its present customers, particularly The East Ohio Gas Company, The Peoples Natural Gas Company, The River Gas Company and New York State Natural Gas Corporation.

Applicant recites that the total cost of the facilities proposed to be installed during 1947 is preliminarily estimated at $3,004,507, the cost of which will be financed by the Hope Company from its cash resources augmented by the sale of capital stock to its parent, Consolidated Natural Gas Company.

Any interested State commission is requested to notify the Federal Power Commission whether the application should be considered under the cooperative provisions of the Commission's rules of practice and procedure, and, if so, to advise the Federal Power Commission as to the nature of its interest in the matter and whether it desires a conference, the creation of a board, or a joint or concurrent hearing, together with the reasons for such request.

Any person desiring to be heard or to make any protest with reference to the application of Hope Natural Gas Company should file with the Federal Power Commission, Washington 25, D. C., not later than fifteen days from the date of publication of this notice in the FEDERAL REGISTER, a petition or protest in accordance with the Commission's rules of practice and procedure.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 47–5247; Filed, June 3, 1947; 8:46 a. m.]

[Docket No. IT–6061]

ALBANY LIGHTING CO.

NOTICE OF APPLICATION

MAY 27, 1947.

Notice is hereby given that on May 26, 1947, an application was filed with the Federal Power Commission, pursuant to section 203 of the Federal Power Act, by Albany Lighting Company, a corporation organized under the laws of the State of Iowa and doing business in the States of Illinois and Iowa, with its principal business office in the Village of Albany, Illinois, seeking an order authorizing disposition and sale of all of its facilities to the Village of Albany, Illinois, for a consideration stated in the application to be $1,750 in cash. The facilities consist of the electric transmission lines, necessary poles and one steel transmission tower, which now run from Clinton County, Iowa, across Coney Island and Beaver Island to the middle of the channel of the Mississippi River; all as more fully appears in the application on file with the Commission.

Any person desiring to be heard or to make any protest with reference to said application should, on or before the 20th day of June 1947, file a petition or protest in accordance with the Commission's rules of practice and procedure.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 47–5269; Filed, June 3, 1947; 8:48 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File Nos. 54–19, 54–92, 59–14]

NEW ENGLAND POWER ASSN. ET AL.

SUPPLEMENTAL ORDER RELEASING JURISDICTION AND PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission held at its office in the City of Philadelphia, Pa., on the 28th day of May A. D. 1947.

In the matter of New England Power Association, Massachusetts Power and Light Associates, North Boston Lighting Properties, The Rhode Island Public Service Company, Massachusetts Utilities Associates Common Voting Trust, Massachusetts Utilities Associates, File No. 54–92, File No. 59–14, File No. 54–19.

New England Power Association, the name of which is to be changed to New England Electric System, a registered holding company, having filed a declaration and amendments thereto pursuant to sections 6 (a), 7 and 11 of the Public Utility Holding Company Act of 1935 with respect to, among other matters, the issuance and sale pursuant to the competitive bidding requirements of Rule U-50 of $25,000,000 principal amount of --% debentures, due 1967, and $50,000,000 principal amount of --% debentures, due 1977; and

The Commission having by order dated May 20, 1947 permitted said declaration as amended to become effective, subject to the condition, among others, that the proposed issuance and sale of debentures should not be consummated until the results of competitive bidding pursuant to Rule U-50 should have been made a matter of record in these proceedings and a further order should have been entered by the Commission in the light of the record so completed, jurisdiction being reserved to impose further terms and conditions as might then be deemed appropriate; and

New England Power Association having on May 28, 1947 filed a further amendment to said declaration herein in which it is stated that in accordance with the permission granted by the Commission's Order of May 20, 1947, it offered said debentures for sale pursuant to the competitive bidding requirements of Rule U-50 and received for $25,000,000 principal amount of the debentures, due 1967, a bid from an underwriting group headed by The First Boston Corporation at the price of 100.589 and a coupon rate of 3%;

The amendment further stating that New England Power Association has accepted the bid of the group headed by The First Boston Corporation as set out above, which results in an annual interest cost to the company of approximately 2.96%, and that said debentures will be offered for sale to the public at an initial price of 101.50, which results in an underwriter's spread of .911%; and

Said amendment having further set forth the action taken by New England Power Association to comply with the requirements of Rule U-50 with respect to the sale of $50,000,000 principal amount of debentures, due 1977, and having stated that, pursuant to the invitation for competitive bids, a bid was received on said debentures by an underwriting group headed by The First Boston Corporation at the price of 101.829 and a coupon rate of 3¼%.

The amendment further stating that New England Power Association has accepted the bid of the group headed by The First Boston Corporation for said debentures, which results in an annual interest cost to the company of approximately 3.16 and that said debentures will be offered to the public at an initial offering price of 102.91, which results in an underwriter's spread of 1.081%; and

A further hearing having been held and the Commission having examined

the records herein and finding no basis for imposing terms and conditions with respect to the prices to be paid to New England Power Association (the name of which will have been changed to New England Electric System) for said debentures, the interest rates thereon and the underwriters' spreads:

It is ordered, That the jurisdiction heretofore reserved with respect to the competitive bidding employed in connection with the sale of each of said series of debentures be, and the same hereby is released, and that said declaration, as further amended, be, and the same hereby is permitted to become effective, subject, however, to the other terms and conditions prescribed in the Commission's Order of May 20, 1947.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 47-5253; Filed, June 3, 1947; 8:47 a. m.]

[File Nos. 54-111, 59-12]

AMERICAN & FOREIGN POWER CO., INC. ET AL

NOTICE OF FILING OF PLAN AND NOTICE OF AND ORDER RECONVENING HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pennsylvania on the 28th day of May A. D. 1947.

In the matter of American & Foreign Power Company, Inc., Electric Bond and Share Company, File No. 54-111; Electric Bond and Share Company et al., respondents, File No. 59-12.

I. On October 26, 1944, American & Foreign Power Company Inc. (Foreign Power), a registered holding company, and its parent, Electric Bond and Share Company (Bond and Share), also a registered holding company, filed with the Commission a joint application for approval of a plan, proposed by Foreign Power and joined in by Bond and Share, pursuant to section 11 (e) of the Public Utility Holding Company Act of 1935, for the reorganization of Foreign Power (File No. 54-111). The stated purposes of said plan were to effectuate compliance with section 11 (b) (2) of the act through the elimination, among other things, of the presently outstanding preferred and second preferred stocks, common stocks, and option warrants of Foreign Power; the conversion of Foreign Power's present capital structure into a capital structure consisting of $119,281,000 principal amount of Debentures due 2030 and 2,500,000 shares of no par value common stock; the fair and equitable distribution of voting power among the security holders of Foreign Power; and the settlement and discharge of the various claims and counterclaims among Bond and Share, Foreign Power, and their respective security holders. The Commission on November 6, 1944, issued its notice of and order for hearing (Holding Company Act Release No. 5388) with respect to said plan and consolidated the proceedings with respect thereto with proceedings pursuant to section 11 (b) (2) of the act (File No. 59-12) instituted by the Commission and directed to, among others, Foreign Power and Bond and Share. Extensive hearings have been held on such matters from time to time.

II. Notice is hereby given that on May 22, 1947 Foreign Power and Bond and Share filed a joint application, pursuant to section 11 (e) of the act, for approval of a plan proposed by Foreign Power and joined in by Bond and Share amending the plan heretofore filed and described above.

All interested persons are referred to the aforesaid amended plan and the application in respect thereto (File No. 54-111) which are on file in the offices of the Commission for a full statement of the transactions therein proposed which may be summarized as follows:

Foreign Power will issue and sell to institutional investors $35,000,000 principal amount of its 3½% Sinking Fund Prior Debentures due 1968. The proceeds from the sale of these Debentures, together with such treasury cash as may be necessary, will be applied to redeem at the call price of 107½ the $50,000,000 principal amount of publicly-held Gold Debentures, 5% Series due 2030, of Foreign Power.

Foreign Power will issue $91,391,600 principal amount of 4¼% Sinking Fund Debentures due 1982 and 5,000,000 shares of new no par value Common Stock. Of these securities, the public holders of the Preferred Stock ($7), $6 preferred stock, Second Preferred Stock, Series A ($7) and Common Stock of Foreign Power will receive the following:

(a) For each share of Preferred Stock ($7) and any and all claims to accrued and unpaid dividends thereon, $110.00 principal amount of new 4¼% Debentures and 1½ shares of new Common Stock;

(b) For each share of $6 Preferred Stock and any and all claims to accrued and unpaid dividends thereon, $100.00 principal amount of 4¼% Debentures and 1¼ shares of new Common Stock;

(c) For each share of Second Preferred Stock, Series A ($7), and any and all claims to accrued and unpaid dividends thereon, 1⅕ shares of new Common Stock;

(d) For each share of old Common Stock 1/25 of a share of new Common Stock.

Bond and Share will receive for its holdings of $30,000,000 3% Serial Notes, 13,800 shares of Preferred Stock ($7), 65,809.10 shares of $6 Preferred Stock, 2,158,236 shares of Second Preferred Stock, Series A ($7) of Foreign Power, and $19,500,000 principal amount of 6% Debentures due 1948 of Cuban Electric Company, a subsidiary of Foreign Power, the following securities: $8,098,900 principal amount of the 4¼% Debentures and 3,354,266 shares of new Common Stock of Foreign Power. Bond and Share will surrender to Foreign Power for cancellation 881,500 shares of old common stock and 5,812,884 option warrants to purchase old Common Stock, of Foreign Power.

The outstanding Option Warrants for the purchase of Common Stock of Foreign Power and the Preferred Stock Allotment Certificates will be revoked, abrogated, and cancelled and will be accorded no participation in the amended plan.

The amended plan provides that the By-Laws of Foreign Power will be amended to require Foreign Power to solicit proxies with respect to annual meetings from all stockholders entitled to vote and also to require the securing of increased percentages of stockholder votes for certain designated corporate actions as long as 50% or more of the common stock is owned or controlled by one stockholder.

The 4¼% Debentures will mature not later than thirty-five years from their date, will be amortized commencing after the retirement of the 3½% Debentures through the operation of an annual sinking fund with provision under certain circumstances for accelerating the commencement of such amortization, will be redeemable in whole or in part at any time at a graduated premium not exceeding 4% will be subordinate as to principal and interest on default to the 3½% Debentures and may be subordinated under specified circumstances to certain other debt, will be subject to certain other pari passu debt, and will be required to be redeemed at a special lower premium after retirement of the 3½% Debentures by the use of all proceeds of any sales of investments of Foreign Power unless such proceeds or amounts equivalent thereto are used to purchase such 4¼% Debentures or to pay, purchase or redeem other equal or prior ranking funded debt, or for additional investments in existing or new subsidiaries or for property additions.

The net overall result of the action contemplated and proposed by the amended plan will be the elimination from the security structure of Foreign Power of its entire existing debt, its preferred stocks and second preferred stock and accumulated dividend arrearages on such preferred and second preferred stocks, its old common stock, its option warrants and its preferred stock allotment certificates, and any shares pertaining thereto, and the issuance, as the sole securities in the structure, of $35,000,000 principal amount of 3½% Sinking Fund Prior Debentures due 1968, $91,391,600 principal amount of 4¼% Sinking Fund Debentures due 1982, and 5,000,000 shares of no par value common stock. In exchange for its present claims against and interest in Foreign Power, as enumerated previously and the transfer to Foreign Power of the $19,500,000 principal amount of 6% Debentures due 1948 of Cuban Electric Company, Bond and Share is to receive $8,098,900 principal amount of the 4¼% Debentures and 3,354,266 shares (67.1%) of the new Common Stock of Foreign Power. The public holders of the $7 Preferred Stock and the $6 preferred Stock are to receive, in lieu of their present claims, $83,292,700 principal amount of 4¼% Debentures due 1982 and 1,099,309 shares (21.99%) of new Common Stock of Foreign Power. The public holders of the Second Preferred Stock, Series A ($7), are to receive, in lieu of their present claims, 493,980 shares

(9.88%) of new Common Stock. The public holders of the Common Stock of Foreign Power are to receive, in lieu thereof, 52,445 shares (1.05%) of the new Common Stock.

Foreign Power proposes to create initially an Investment Reserve in the amount of $220,000,000 of which $196,736,650 is to be provided from Stated Capital and $23,263,350 from Earned Surplus. Upon consummation of the amended plan, the company proposes to reduce the stated value of its Investment Account in the amount of $35,497,066 by charges to the reserve. It is further proposed that the balance of $184,502,934 will remain in the reserve.

No Certificates for 4¼% Debentures in fractions of $100 or for fractional shares of Common Stock will be issued but scrip will be issued in lieu thereof, which will not be entitled to any debenture holders' or stockholders' rights except that when combined in lots aggregating respectively one or more full $100 principal amounts of 4¼% Debentures, or one or more full shares of Common Stock, such scrip may be exchanged for such 4¼% Debentures or shares, as the case may be, within a period of one year after the effective date of the amended plan. All 4¼% Debentures and shares of Common Stock reserved for issuance in exchange for scrip and not isued in connection therewith within the one-year period will be sold by Foreign Power in the open market within 60 days after the expiration of such one-year period and the sole rights of the holders of such scrip certificates thereafter shall be to their pro-rata shares of the respective proceeds of such sales without interest thereon.

Upon the expiration of six years following the effective date of the amended plan (subject to certain specified exceptions) any securities or cash held by Foreign Power or any of its agents which have not been claimed by any person entitled thereto or otherwise disposed of pursuant to the amended plan will, in the case of securities, be cancelled, retired or disposed of as the company's board of directors may determine and the proceeds therefrom, together with any cash so held, shall become a part of Foreign Power's general corporate funds. No stockholder who shall fail to claim the securities or cash to which he is entitled pursuant to the terms of the amended plan by the expiration of the six-year period, shall be entitled to receive any part of said securities or the proceeds thereof, or any other cash to which such stockholder may be entitled under the amended plan.

Foreign Power and Bond and Share request that there be a further hearing upon the amended plan on matters not already covered by the existing record. Foreign Power further requests that it be exempted from the competitive bidding provisions of the Commission's Rule U-50 as respects the issuance and sale of said 3½% Sinking Fund Prior Debentures, and both companies request, if the Commission approves the amended plan, that the Commission institute court proceedings for its enforcement as contemplated by section 11 (e) of the act.

The amended plan provides that its approval by the Commission, its confirmation by the court, and its consummation by the parties shall have the effect of a complete compromise, settlement, and discharge of all claims and counterclaims of the parties or their various security holders as such, against the parties and wholly owned subsidiaries including, but not limited to, those relating in any way to, arising out of, or involving service or construction fees or charges or the debt or security holdings of Bond and Share in Foreign Power and its subsidiaries or predecessors or the conduct or management of Foreign Power or its subsidiaries or predecessors to the effective date of the amended plan, including in such claims, but without limitation thereto, those specifically referred to in the amended plan which form the alleged basis for causes of action in stockholders' derivative actions specifically enumerated in the amended plan and any claims involved in the proceedings as enumerated in the amended plan which were instituted by and are pending before the Commission.

The Commission is petitioned, if it approves the amended plan to fix and determine the amounts of the payments, if any, to be made by Foreign Power to the plaintiffs or their attorneys or accountants in the court actions enumerated in the amended plan and to any other persons by way of reimbursement for disbursements or allowances for legal, accounting or other services, and Foreign Power undertakes to make such payments as may be determined, awarded, allowed, or allocated by the Commission, without prejudice, however, to its right to seek judicial review of any such determination, award, allowance, or allocation.

The amended plan also states that its effectuation is subject to obtaining from the United States Treasury Department a ruling or rulings as to the tax consequences of the transactions necessary to carry out the amended plan which will be satisfactory to the managements of the corporations affected, and subject to the Commission's reciting in its order that the relevant transactions of the amended plan are necessary or appropriate to the integration or simplification of the holding company system of which Foreign Power is a member and necessary or appropriate to effectuate the provisions of subsection (b) of section 11 of the act, all in accordance with the meaning and requirements of the Internal Revenue Code, as amended, including section 1808 (f) and Supplement R thereof.

III. The Commission being required by the provisions of section 11 (e) of the act before approving any plan thereunder to find, after notice and opportunity for hearing, that such plan, as submitted or as modified, is necessary to effectuate the provisions of subsection (b) of section 11 and is fair and equitable to the persons affected by such plan, and it appearing appropriate to the Commission in the public interest and in the interest of investors that hearings in these consolidated proceedings be reconvened for the purpose of considering said amended plan and to afford all interested persons an opportunity to be heard with respect thereto and that the application with respect to said amended plan shall not be granted except pursuant to further order of the Commission:

It is ordered, That hearings in these consolidated proceedings be reconvened on said matters at 10:30 a. m., e. d. s. t., on the 24th day of June 1947, at the offices of the Securities and Exchange Commission, 18th and Locust Streets, Philadelphia, Pennsylvania, in such room as may be designated at that time by the Hearing Room Clerk in Room 318. All persons desiring to be heard or otherwise wishing to participate in the proceedings and not heretofore granted leave to be heard or participate shall notify the Commission in the manner provided by its rules of practice, Rule XVII, on or before June 23, 1947.

It is further ordered, That Allen MacCullen, heretofore designated to preside in these proceedings, or any other officer or officers of the Commission designated by it for that purpose, shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said act and to a hearing officer under the Commission's rules of practice.

It is further ordered, That, without limiting the scope of the issues presented in the consolidated proceedings, particular attention will be directed at the reconvened hearing to the following matters and questions:

1. Whether the amended plan, as submitted or as hereafter modified, is necessary to effectuate the provisions of section 11 (b) of the act.

2. Whether the amended plan, as submitted or as hereafter modified, is fair and equitable to the persons affected thereby.

3. Whether the securities to be issued in connection with the proposed amended plan are appropriate in nature and reasonably adapted to the security structure and earning power of Foreign Power and its holding company system and whether any terms or conditions should be imposed in connection therewith.

4. Whether, if the amended plan is approved by the Commission, it is appropriate in the public interest and in the interest of investors that any terms and conditions be imposed in connection with such approval and, if so, what such terms and conditions should be.

5. Whether the fees and expenses to be paid in connection with the amended plan or the proceedings with respect thereto are reasonable and appropriate.

6. Whether the Commission shall, in accordance with the petition of the parties to the amended plan, take and exercise jurisdiction to fix and determine the amounts of the payments, if any, to be made by Foreign Power to the plaintiffs or their attorneys or accountants in the legal proceedings specifically enumerated in the amended plan, by way of reimbursement for disbursements or allowances for legal, accounting or other services and, if so, what action it should take in the exercise of such jurisdiction.

7. Whether the accounting entries in connection with the amended plan are in conformity with the standards of the act and rules promulgated thereunder.

8. Generally, whether the provisions of the amended plan are in all respects in the public interest and in the interest of investors and consistent with all applicable requirements of the act and the rules thereunder.

It is further ordered, That jurisdiction be, and it hereby is, reserved to separate, either for hearing, in whole or in part, or for disposition, in whole or in part, any of the issues, questions or matters herein set forth or which may arise in these proceedings or to consolidate with these proceedings other filings or matters pertaining to the subject matter of these proceedings, and to take such other action as may appear conducive to an orderly, prompt and economical disposition of the matters involved.

It is further ordered, That the Secretary of the Commission shall serve notice of filing said application and amended plan and of said hearing by mailing a copy of this notice and order by registered mail to Foreign Power, to Bond and Share, to the attorneys of record in the legal proceedings specifically enumerated in the amended plan, and to all other persons who have heretofore applied for, or who have been granted, leave to be heard or to participate in these consolidated proceedings or their counsel of record, and that notice of said matters shall be given to all other persons by general release of this Commission which shall be distributed to the press and mailed to the mailing list for releases issued under the Public Utility Holding Company Act of 1935, and that further notice be given to all persons by publication of this notice and order in the FEDERAL REGISTER.

It is further ordered, That Foreign Power shall give notice of said hearing to all of its security holders insofar as the identity of such security holders is known or available to it by mailing to each of said persons a copy of this notice and order together with a copy of the proposed amended plan at his last known address at least 15 days prior to the date of said hearing.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 47-5251; Filed, June 3, 1947; 8:46 a. m.]

[File No. 70-1501]

UTAH POWER & LIGHT CO. AND WESTERN COLORADO POWER CO.

ORDER GRANTING APPLICATION AND PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 27th day of May A. D. 1947.

Utah Power & Light Company ("Utah"), a registered holding company, and its wholly owned electric utility subsidiary, The Western Colorado Power Company ("Colorado"), having filed a joint application-declaration, and amendments thereto, pursuant to sections 6 (a), 7, 9, 10 and 12 (f) of the Public Utility Holding Company Act of 1935, and Rule U-43 promulgated thereunder with respect to the following transactions:

Colorado has presently outstanding 75,000 shares of common stock of the par value of $20 per share, all of which is owned by Utah. Colorado proposes to issue not to exceed 12,500 additional shares of its common stock, and Utah proposes to purchase said shares for a cash consideration of $250,000, the proceeds to be used by Colorado in connection with its construction program.

The proposed transaction has been approved by the Public Utilities Commission of the State of Colorado, the State in which Colorado was organized and is doing business.

The application-declaration having been filed April 8, 1947, and amendments thereto having been filed on April 28, 1947, and May 7, 1947, and notice of said filing, as amended, having been given in the form and manner prescribed by Rule U-23 promulgated pursuant to said act, and the Commission not having received a request for hearing with respect to said application as amended within the period specified in said notice or otherwise, and not having ordered a hearing thereon; and

The Commission finding with respect to the application-declaration, as amended, that the requirements of the applicable provisions of the act and rules thereunder are satisfied, that no adverse findings are necessary thereunder, and deeming it appropriate in the public interest and in the interest of investors and consumers that the said application-declaration, as amended, be granted and permitted to become effective, and deeming it appropriate to grant the request of applicants-declarants that the order become effective at the earliest date possible;

It is hereby ordered, Pursuant to said Rule U-23 and the applicable provisions of said act and subject to the terms and conditions prescribed in Rule U-24 that said joint application-declaration, as amended, be, and the same hereby is, granted and permitted to become effective forthwith.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 47-5249; Filed, June 3, 1947; 8:46 a. m.]

[File No. 70-1515]

EASTERN KANSAS UTILITIES, INC. AND CONTINENTAL GAS & ELECTRIC CORP.

ORDER GRANTING APPLICATION AND PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission held at its office in the City of Philadelphia, Pa. on the 27th day of May 1947.

Continental Gas & Electric Corporation ("Continental"), a registered holding company, and its utility subsidiary, Eastern Kansas Utilities, Inc. ("Eastern Kansas"), having filed a joint application-declaration, and amendments thereto, pursuant to the Public Utility Holding Company Act of 1935 ("act"), designating sections 6 (b), 7, 9, 10 and 12 (f) of the act and Rules U-43 and U-50 (a) (3) and (a) (4) promulgated thereunder as applicable with respect to the following proposed transactions:

Eastern Kansas proposes to issue and sell to The Northwestern Mutual Life Insurance Company of Milwaukee, Wisconsin, $600,000 principal amount of First Mortgage Bonds, 2⅞% Series, dated March 1, 1947, and maturing September 1, 1967, for a cash consideration equal to the principal amount thereof plus interest accrued thereon to the date of payment, and to issue and sell to Continental, the owner of the outstanding common stock of Eastern Kansas, and Continental proposes to acquire, 1,500 shares of $100 par value common stock of Eastern Kansas for $150,000 cash. It is stated that Eastern Kansas will use the proceeds from the sale of the bonds and common stock for the construction of additional facilities.

Such application-declaration having been filed April 30, 1947, and notice of the filing thereof having been given in the form, manner and for the time prescribed by Rule U-23 promulgated under the act, and the Commission not having received a request for a hearing with respect to said application-declaration within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

Applicants-declarants having requested that the Commission enter an order, to become effective forthwith, with respect to said application-declaration; and

The Commission finding that the State Corporation Commission of Kansas has issued its certificate with relation to the proposed transactions, and that no action of any other State commission is required; and

The Commission further finding that the proposed transactions satisfy the applicable provisions of the act and the rules promulgated thereunder and that the proposed issuance and sale of common stock and bonds are excepted from the competitive bidding requirements of Rule U-50 by virtue of the provisions of paragraphs (a) (3) and (a) (4) thereof; and the Commission deeming it appropriate to grant said application and permit said declaration to become effective and to grant the request of applicants-declarants that the order become effective forthwith;

It is hereby ordered, Pursuant to Rule U-23 and the applicable provisions of the act and subject to the requirements of Rule U-24, that the aforesaid application-declaration be, and it hereby is, granted and permitted to become effective forthwith; but upon the express condition, however, that nothing herein shall be construed as determining, or in any manner affecting the power and jurisdiction of the Commission to determine, the ultimate retainability by Continental of its interest in Eastern Kansas or what action should be taken by Con-

tinental to effectuate compliance with section 11 (b) (1) of the act.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 47-5250; Filed, June 3, 1947; 8:46 a. m.]

[File No. 70-1519]

UNITED GAS CORP.

ORDER GRANTING APPLICATION

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pennsylvania, on the 28th day of May A. D. 1947.

United Gas Corporation ("United"), a gas utility subsidiary of Electric Power & Light Corporation, a registered holding company subsidiary of Electric Bond and Share Company, also a registered holding company, having filed an application, and amendment thereto, pursuant to sections 9 (a), 10 and 12 (f) of the Public Utility Holding Company Act of 1935 and Rule U-43 thereunder regarding the following proposed transactions:

United proposes to organize, under the laws of the State of Delaware, a corporation to be known as Atlantic Gulf Gas Company ("Atlantic Gulf"). Atlantic Gulf will have initially 1,000,000 shares of authorized common stock without par value, of which 100,000 shares of the stated value of $10 per share will be issued at this time and acquired by United for $1,000,000 in cash. Atlantic Gulf is being organized for the purpose of constructing and operating a natural gas pipe line system extending from the State of Mississippi in an easterly direction to the Atlantic Seaboard, passing through the southern parts of the States of Alabama and Georgia and extending also into the northern part of the State of Florida and into the southeastern part of the State of South Carolina.

The application having been filed on the 6th day of May 1947 and the latest amendment thereto having been filed on the 21st day of May 1947, and United having requested that the application be granted at the earliest practicable date, and notice of said filing having been duly given in the form and manner prescribed by Rule U-23 promulgated pursuant to said act and the Commission not having received a request for a hearing with respect to said application, as amended, within the period specified in said notice or otherwise and not having ordered a hearing thereon; and

The Commission finding with respect to said application, as amended, that the requirements of the applicable provisions of the act and the rules thereunder are satisfied and deeming it appropriate in the public interest and in the interest of investors and consumers that the said application, as amended, be granted, and deeming it appropriate to grant the request of applicant that the order become effective at the earliest date possible:

It is hereby ordered, Pursuant to Rule U-23 and the applicable provisions of said act and subject to the terms and conditions prescribed in Rule U-24 that the said application, as amended, be, and the same hereby is, granted.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 47-5252; Filed, June 3, 1947; 8:46 a. m.]

[File No. 70-1520]

KENTUCKY UTILITIES CO. ET AL.

NOTICE OF FILING AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission held at its office in the City of Philadelphia, Pa., on the 28th day of May A. D. 1947.

In the matter of Kentucky Utilities Co., Old Dominion Power Co., The Middle West Corp., File No. 70-1520.

Notice is hereby given that joint applications-declarations have been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by The Middle West Corporation ("Middle West"), a registered holding company, Kentucky Utilities Company ("Kentucky"), a subsidiary of Middle West and primarily a public utility company, and Old Dominion Power Company ("Dominion"), a subsidiary of Kentucky. Applicants-declarants designate sections 6, 7, 9, 10 and 12 of the act and Rules U-42, U-43, U-45 and U-50 of the General rules and regulations promulgated thereunder as being applicable to the proposed transactions.

All interested persons are referred to said applications-declarations, which are on file in the office of the Commission, for a statement of the transactions therein proposed, which may be summarized as follows:

Kentucky proposes to issue $24,000,000 in principal amount of First Mortgage Bonds, Series A __%, to be dated May 1, 1947, and to mature May 1, 1977, 130,000 shares of __% Preferred Stock, cumulative, par value $100 per share, and 1,130,000 shares of Common Stock of the par value of $10 per share.

The bonds will be sold at competitive bidding, and the interest rate and the price to be paid to the company, which shall be not less than 100% nor more than 102.75% of principal amount exclusive of accrued interest, will be determined by the bidding.

The __% Preferred Stock will also be sold at competitive bidding, subject, however, to an offer of exchange to the holders of the presently outstanding preferred stocks as summarized below. The dividend rate and the price to the company, which shall also be the initial public offering price and which shall not be less than 100% nor more than 102.75% of par, will be determined by the bidding. The Invitation for Proposals requires, among other things, that each bid specify the aggregate amount of compensation to be paid the bidder for his efforts in soliciting exchanges pursuant to the exchange offer and for purchasing the shares of new Preferred Stock not required under the exchange program.

After acceptance of a bid for the __% Preferred Stock, Kentucky proposes to offer, for a period of approximately ten days, to the holders (other than Middle West) of its presently outstanding preferred stocks, the right to exchange shares of such preferred stocks on the basis of one share of 6% Preferred Stock, par value $100 per share, or two shares of 7% Junior Preferred Stock, par value $50 per share, for one share of __% Preferred Stock. No fractional shares of __% Preferred Stock will be issued in effecting exchanges. Exchanging shareholders will receive an appropriate cash adjustment for the difference between the initial public offering price of the new Preferred Stock and the respective redemption prices of the shares of presently outstanding preferred stocks.

Kentucky will redeem all shares of 6% Preferred Stock and 7% Junior Preferred Stock, including the 3,041 shares of the latter held by Middle West, which are not acquired as a result of the exchange offer, for cash at the respective redemption prices of $110 and $55 per share.

The new Common Stock will be issued and sold to Middle West which holds all of the presently outstanding no par Common Stock of Kentucky. Of the 1,130,000 shares of new Common Stock to be issued, 480,311 shares will be issued in exchange for the 134,375 shares of presently outstanding Common Stock and 649,689 shares will be sold at par for a cash consideration of $6,496,890.

Kentucky also proposes to (1) advance to Dominion $1,500,000 to be evidenced by a ten year unsecured note, bearing interest at the rate of 3% per annum, payable semi-annually, (2) purchase from Dominion 6,000 shares of the capital stock of that company at the par value of $25 per share for $150,000, and (3) make a contribution of $850,000 to the capital surplus of Dominion. Dominion proposes to use the proceeds from these various transactions to call for redemption, at 100.5% of principal amount, its First Mortgage Gold Bonds, Series A, 5%, due May 15, 1951, now outstanding in the principal amount of $2,450,400.

The applications-declarations state that Kentucky will use the proceeds from the sale of its bonds, exclusive of accrued interest thereon, for the redemption, at 105% of principal amount, of its First Mortgage Bonds, 4% Series of 1970, due January 1, 1970, now outstanding in the principal amount of $21,000,000. It is stated that the balance of such proceeds will be used to reimburse Kentucky for the cost of additions and extensions to its properties. The proceeds from the sale of the new Preferred Stock and the Common Stock will be used by Kentucky to effectuate the retirement of the shares of preferred stocks not acquired as a result of the exchange offer, to increase, in accordance with the transactions outlined above, its investment in Dominion, and to pay a portion of the cost of necessary additions and extensions to its facilities.

In order to carry out the designated transactions, Kentucky proposes to amend its Articles of Incorporation to create an additional class of preferred stock, namely, __% Preferred Stock,

cumulative, par value $100, which will be authorized in the amount of 200,000 shares. The Articles of Incorporation will also be amended to reclassify the present no par common stock into $10 par value common stock, and increase the authorized number of shares of common stock to 2,000,000. The proposed amendment provides that, so long as shares of __% Preferred Stock are outstanding, the shares of presently outstanding preferred stocks shall not be reissued after acquisition by the company.

Dominion presently has outstanding 6,735 shares of Preferred Stock with an aggregate stated value of $639,825 and 13,000 shares of no par Common Stock with an aggregate stated value of $715,000, all of which are held by Kentucky. Dominion proposes to amend its charter to change all of its shares of Preferred Stock without par value and Common Stock without par value into shares of capital stock of the par value of $25 a share, without increasing or decreasing the amount of capital represented by shares now outstanding. Kentucky proposes to surrender the shares of Preferred Stock and Common Stock of Dominion for 54,193 shares of Dominion's new $25 par value capital stock.

It is stated that the Public Service Commission of Kentucky, the Railroad and Public Utilities Commission of Tennessee and the State Corporation Commission of Virginia are the State Commissions having jurisdiction with respect to the proposed transactions, and that copies of the applications to such Commissions for the necessary approvals and the orders of said Commissions issued in connection therewith, will be filed by amendment.

It appearing to the Commission that it is appropriate in the public interest and in the interests of investors and consumers that a hearing be held with respect to said applications-declarations and that said applications-declarations shall not be granted or permitted to become effective except pursuant to further order of the Commission;

It is ordered, That a hearing on said applications-declarations pursuant to the applicable provisions of the act and the rules and regulations thereunder be held on June 10, 1947, at 10:00 A. M., e. d. s. t., at the office of this Commission, 18th and Locust Streets, Philadelphia 3, Pennsylvania, in such room as may be designated on that day by the hearing room clerk in Room 318. Any person who desires to be heard or otherwise wishes to participate in this proceeding shall file with the Secretary of the Commission on or before June 9, 1947, a written request relevant thereto as provided by Rule XVII of the Commission's rules of practice.

It is further ordered, That Robert P. Reeder, or any other officer or officers of this Commission designated by it for that purpose, shall preside at such hearing. The officer so designated to preside at such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of the act and to a hearing officer under the Commission's rules of practice.

The Public Utilities Division of the Commission having advised the Commission that it has made a preliminary study of said application-declarations and that, upon the basis thereof, the following matters and questions are presented for consideration, without prejudice, however, to the presentation of additional matters and questions upon further examination:

1. Whether the proposed issuance and sale of securities by Kentucky and Dominion meet the applicable requirements and standards of the act.

2. Whether the acquisition of securities as proposed by Middle West, Kentucky and Dominion meets the applicable requirements of the act.

3. Whether the fees, commissions, or remuneration to be paid in connection with the proposed transactions are reasonable.

4. Whether the proposed accounting treatment of the transactions is proper and in conformity with sound accounting principles.

5. Generally, whether the proposed transactions comply with all of the applicable provisions and requirements of the act and rules and regulations thereunder, and whether it is necessary or appropriate in the public interest or for the protection of investors and consumers, or to prevent the circumvention of any provisions of the act or rules and regulations thereunder, to impose terms and conditions in connection with any of the proposed transactions.

It is further ordered, That particular attention be directed at said hearing to the foregoing matters and questions.

It is further ordered, That the Secretary of the Commission shall serve copies of this order by registered mail on Middle West, Kentucky, Dominion, the Federal Power Commission, the Public Service Commission of Kentucky, the Railroad and Public Utilities Commission of Tennessee and the State Corporation Commission of Virginia; and that notice of said hearing shall be given to all other persons by publication of this order in the FEDERAL REGISTER and by general release distributed to the press.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 47-5255; Filed, June 3, 1947; 8:47 a. m.]

[File No. 70-1532]

AMERICAN WATER WORKS AND ELECTRIC CO., INC. AND WICHITA WATER CO.

NOTICE OF FILING

At a regular session of the Securities and Exchange Commission held at its office in the City of Philadelphia, Pa., on the 28th day of May A. D., 1947.

Notice is hereby given that a joint application-declaration has been filed with this Commission pursuant to sections 6, 12 (b) and 12 (f) of the Public Utility Holding Company Act of 1935 and Rule U-45 promulgated thereunder by American Water Works and Electric Company, Incorporated ("American"), a registered holding company, and its direct subsidiary, The Wichita Water Company ("Wichita"), an operating water utility company.

Notice is further given that any interested person may not later than June 16, 1947, at 5:30 p. m., e. d. t., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request, the nature of this interest and the issues of fact or law raised by said joint application-declaration which he desires to controvert, or request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 18th and Locust Streets, Philadelphia 3, Pennsylvania. At any time after June 16, 1947, said joint application-declaration, as filed or as amended, may be granted and permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act or the Commission may exempt such transactions as provided in Rule U-20 (a) and Rule U-100.

All interested persons are referred to said joint application-declaration which is on file in the offices of this Commission for a statement of the transactions therein proposed which are summarized below:

Wichita proposes to issue and sell to John Hancock Mutual Life Insurance Company $950,000 principal amount of First Mortgage Bonds, Series B, 2⅞%, due June 1, 1977, at a price of 101% of their principal amount plus accrued interest. These bonds are to be issued under a Mortgage and Deed of Trust dated as of April 1, 1941, between Wichita and City Bank Farmers Trust Company, as Trustee, and an indenture supplemental thereto to be dated as of June 1, 1947. John Hancock Mutual Life Insurance Company now owns all of the outstanding funded debt of Wichita consisting of $3,000,000 principal amount of First Mortgage Bonds, Series A, 3⅝%, due April 1, 1971. The proceeds of the sale of the bonds will be used by Wichita to pay its presently outstanding 2½% notes payable to banks in the aggregate amount of $280,000 and to pay for extensions, improvements and additions to its properties.

American proposes to make a capital contribution of $868,000 to Wichita in satisfaction of a like amount of advances on open account due from Wichita. The amount of this capital contribution is to be added by American to its investment in the common stock of Wichita and will be credited by Wichita to capital surplus. American owns all of the issued and outstanding common stock of Wichita.

The estimated fees and expenses applicable to the proposed transactions aggregate $16,800.

The filing requests that the Commission's order granting and permitting effectiveness to the joint application-declaration be issued as promptly as possible and become effective on the date of issuance.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 47-5254; Filed, June 3, 1947; 8:47 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Return Order 16]

SOCIETE NACIONALES DES CHEMINS DE FER FRANCAIS ET AL.

Having considered the claims set forth below and having approved the Vested Property Claims Committee's Determination with respect thereto, which is incorporated by reference herein and filed herewith,[1] including the Committee's merger of Claims Nos. 5089, 5090, and 5092, filed in the names of Compagnie du Chemin de fer de Paris A'Orleans, Compagnie des Chemins de fer du Midi, and Compagnie du Chemin de fer du Nord, respectively, with Claim No. 5091; and Notice of Intention to Return the property involved therein and described below having been published on March 22, 1947 (12 F. R. 1932),

It is ordered, That the claimed property, described below and in the Determination, including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, be returned to Societe Nationale des Chemins de fer Francais of Paris, France (New York Branch known as French National Railroads, 610 Fifth Avenue, New York 20, N. Y.), subject to any increase or decrease resulting from the administration of such property prior to return and after adequate provision for taxes and conservatory expenses.

Claim No. and Property

5091 (including 5089, 5090 and 5092):
$207,199.61 in United States Treasury; $30.04 in United States Treasury; $613.21 in United States Treasury; $111,487.43 in United States Treasury; 52 M Kingdom of Belgium 6% bonds due 1/1/55, and 80 M Kingdom of Belgium 6½% bonds due 9/1/49 in Federal Reserve Bank, New York, N. Y.

5254:
$4,817.70 in United States Treasury; 500 Photographs, 5 Boxes of French Railroad tickets in Office of Alien Property Warehouse, New York, N. Y.; approximately 115-35 mm. French films (39 16 mm. French films) with duplicates; 1,000 slides in RKO film vault, Washington, D. C.; "Micheline" railcar and trailer at U. S. Customs, Staten Island, N. Y.; property described in the second paragraph of Vesting Order No. 500A-8 (9 F. R. 7876, July 14, 1944), relating to copyrights referred to in Exhibit A thereto, to the extent owned by the claimant immediately prior to the vesting thereof.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on May 29, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK, *Director.*

[F. R. Doc. 47-5277; Filed, June 3, 1947; 8:54 a. m.]

[1] Filed as part of the original document.

[Return Order 18]

HERBERT RAYMOND LODER

Having considered the claim set forth below and having approved the Vested Property Claims Committee's Determinations and Allowance with respect thereto, which are incorporated by reference herein and filed herewith,[1]

It is ordered, That the claimed property, described below and in the Determinations and Allowance be returned, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant and claim No.	Notice of intention to return published	Property and location
Herbert Raymond Loder, Ridgewood, N. J., claim No. 4678.	12 F. R. 1796, Mar. 15, 1947.	$5,776.36 in the Treasury of the United States. Beneficial life interest of Herbert Raymond Loder under the testamentary trust of Frances C. Selter, New York, N. Y.; trustee, the City Bank Farmers Trust Co., New York, N. Y.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on May 29, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK, *Director.*

[F. R. Doc. 47-5278; Filed, June 3, 1947; 8:54 a. m.]

[Vesting Order 8984]

JOHANNES CARL ADOLPH AND GUSTAVA ADOLPHINE KLUEHN

In re: Estates of Johannes Carl Adolph Kluehn, deceased and Gustava Adolphine Kluehn, deceased. (File Nos. F-28-8745; F-28-8745G-1; F-28-8745A-1; D-28-10541G-1; F-28-8745E-1)

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Lilly Gronewaldt, Hans Philo Geyl, also known as Hans Philipp Geyl, Mrs. Eveline Edmee Kemner, Wolfgang Geyl, also known as Julius Adolphus Wolfgang Geyl, Mrs. Gerda Hermine Luise Gustavus, Erika Holle, Liselotte Cuno, Gisela von Ziegesar, Sylvia von Ziegesar and Edmee Riede, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the domiciliary executor or administrator, heirs, next of kin, legatees and distributees, of Elise Geyl (Gayl) deceased and the domiciliary executor or administrator, heirs, next of kin, legatees and distributees, of Georg Freiherr von Ziegesar, deceased, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

3. That all right, title, interest, and claim of any kind of character whatsoever of the persons identified in subparagraphs 1 and 2 hereof individually and as domiciliary executors or administrators, heirs, next of kin, legatees and distributees of Johannes Carl Adolph Kluehn, deceased, Gustava Adolphine Kluehn, deceased, Elise Geyl (Gayl) deceased, and Georg Freiherr von Ziegesar, deceased, and each of them, in and to all property of any kind or character whatsoever situated within the United States constituting assets of the estates of Johannes Carl Adolph Kluehn and Gustava Adolphine Kluehn, both now deceased, including but without limitation any and all of such property in the possession, custody or control of the St. Louis Union Trust Company, St. Louis, Missouri and the First National Bank of St. Louis, Missouri, is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

4. That to the extent that the above named persons and the domiciliary executor or administrator, heirs, next of kin, legatees and distributees, of Elise Geyl (Gayl) deceased and the domiciliary executor or administrator, heirs, next of kin, legatees and distributees, of Georg Freiherr von Ziegesar, deceased, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 19, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK, *Director.*

[F. R. Doc. 47-5274; Filed, June 3, 1947; 8:54 a. m.]

[Vesting Order 9050]

TEIKICHI TAKAHASHI

In re: Notes owned by Teikichi Takahashi. F-39-1713-C-1, F-39-1713-C-2, F-39-1713-C-3, F-39-1713-C-4, F-39-1713-C-5, F-39-1713-C-6, F-39-1713-C-8, F-39-1713-C-9.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Teikichi Takahashi, whose last known address is Suido Cho, Niigata City, Japan, is a resident of Japan and a national of a designated enemy country (Japan);

2. That the property described as follows: Those certain debts or other obligations owing to Teikichi Takahashi, by the persons whose names and addresses are listed in Exhibit A, attached hereto and by reference made a part hereof, in the amounts and evidenced by the notes described in said Exhibit A, and any and all rights to demand, enforce and collect the aforesaid debts or other obligations and any and all accruals thereto, together with any and all rights in, to and under, including particularly the right to possession of the aforesaid notes,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 21, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK,
Director.

EXHIBIT A

Maker of note	Address	Date of note	Principal sum	Amount due
Henry F. Horii	79 N. School St., Honolulu, T. H.	Apr. 24, 1939	$2,000	$1,800
Yukichi Aoyagi	1313-B Kahanu St., Honolulu, T. H.	do	250	250
Sakaji Buyama	344 C-1 Liko Lane, Honolulu, T. H.	do	250	250
Kozo Iwamoto	1523 Kauluwela Lane, Honolulu, T. H.	do	750	750
Kiuji Nakamura	1467 Konia St., Honolulu, T. H.	do	500	500
Masaru Nitta	79 N. School St., Honolulu, T. H.	do	500	500
Fukutaro Takamiya	1726 Apaki St., Honolulu, T. H.	do	500	500
Masazo Tango	79 N. School St., Honolulu, T. H.	do	1,500	1,500

[F. R. Doc. 47-5275; Filed, June 3, 1947; 8:54 a. m.]

[Vesting Order 9054]

LEOPOLD GEORG VON ZEDLITZ

In re: Bank accounts and bonds owned by and debt owing to Leopold Georg von Zedlitz, also known as Leopold von Zedlitz. F-28-1394-A-1, F-28-1394-E-1, F-28-1394-E-2.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Leopold Georg von Zedlitz, also known as Leopold von Zedlitz, whose last known address is Prinsnig, Post Gross Tinz, Kreis Liegnitz, Schlesien, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows:

a. That certain debt or other obligation of the Central Savings Bank in the City of New York, 2100 Broadway, New York 23, New York, arising out of a savings account, Account Number 1608, entitled Anna M. von Zedlitz in trust for Leopold Georg von Zedlitz, and any and all rights to demand, enforce and collect the same,

b. That certain debt or other obligation of The Manhattan Savings Bank, 754 Broadway, New York 3, New York, arising out of a savings account, Account Number 192,883, entitled Anna M. von Zedlitz in trust for Leopold von Zedlitz, and any and all rights to demand, enforce and collect the same.

c. Two (2) City of New York Corporate Stock Water Supply 4¼% obligations, due April 15, 1972, in the face amount of $1000 each, bearing the numbers 6879 and 6880, and presently in the custody of the Lawyers Trust Company, 111 Broadway, New York 6, New York, together with any and all rights thereunder and thereto, and

d. That certain debt or other obligation of Lawyers Trust Company, 111 Broadway, New York 6, New York, in the amount of $510.00 as of December 31, 1945, arising out of coupons, maturing 4/15/40 to 10/15/45 inclusive, detached from the City of New York 4¼% Bonds due April 15, 1972, described in subparagraph c above, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Leopold Georg von Zedlitz, also known as Leopold von Zedlitz, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 21, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK,
Director.

[F. R. Doc. 47-5276; Filed, June 3, 1947; 8:54 a. m.]

[Return Order 19]

RADIO CORP. OF AMERICA ET AL.

Having considered the claims set forth below and having approved the Vested Property Claims Committee's Determinations and Allowance with respect thereto, which are incorporated by reference herein and filed herewith,[1]

It is ordered, That the claimed property, described below and in the Determinations and Allowance, including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, be returned after adequate provision for conservatory expenses:

[1] Filed as part of the original document.

Claimant and claim No.	Notice of intention to return published	Property
Radio Corp. of America, New York, N. Y., claim No. A-424.	12 F. R. 2429, Apr. 12, 1947.	Property described in Vesting Order No. 666 (8 F. R. 5047, Apr. 17, 1943), relating to United States Letters Patent No. 1,822,758, to the extent owned by claimant immediately prior to the vesting thereof.
Kislyn Corp., New Milford, Conn., claim No. A-419.	do	Property described in Vesting Order No. 666 (8 F. R. 5047, Apr. 17, 1943), relating to United States Letters Patent Nos. 1,703,026; 1,707,157; 1,721,244; 1,729,922; 1,746,584; 1,758,137; and 1,777,954, to the extent owned by claimant immediately prior to the vesting thereof.
Charles N. Ehrlich (formerly known as Karl Ehrlich), New York, N. Y., claim No. 6306.	do	Property described in Vesting Order No. 201 (8 F. R. 625, Jan. 16, 1943), relating to United States Letters Patent No. 2,185,056, to the extent owned by claimant immediately prior to the vesting thereof.
R. Hoe & Co., Inc., New York, N. Y., claim No. A-384.	do	Property described in Vesting Order No. 201 (8 F. R. 625, Jan. 16, 1943), relating to United States Letters Patent No. 1,724,590, to the extent owned by claimant immediately prior to the vesting thereof, and subject to the rights vested in the Alien Property Custodian by virtue of Vesting Order No. 4591 dated Feb. 6, 1945, said vesting order having vested all interests and rights created in Leonhard Horn by virtue of an agreement dated Dec. 3, 1931, between Leonhard Horn and the claimant relating, among other things, to United States Letters Patent No. 1,724,590.
The Light Conditioning Co. of America, Inc., Manhasset, L. I., N. Y., claim No. 1608.	do	Property described in Vesting Order No. 201 (8 F. R. 625, Jan. 16, 1943), relating to United States Letters Patent No. 2,081,060, to the extent owned by claimant immediately prior to the vesting thereof.
Pyrene Development Corp. (formerly Pyrene-Minimax), Newark, N. J., claim No. A-368.	do	Property described in Vesting Order No. 201 (8 F. R. 625, Jan. 16, 1943), relating to United States Letters Patent No. 1,669,213, to the extent owned by claimant immediately prior to the vesting thereof.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on May 29, 1947.

For the Attorney General.

[SEAL]

DONALD C. COOK,
Director.

[F. R. Doc. 47-5279; Filed, June 3, 1947; 8:55 a. m.]